

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**September 27, 2011**

**SECOND REGULAR SESSION**  
**January 4, 2012 to May 31, 2012**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**LAWS IS**  
**SEPTEMBER 28, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 30, 2012**

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

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**Augusta, Maine**  
**2012**



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## PREFACE

The 2011 edition of Laws of the State of Maine is the official publication of the session laws of the State of Maine enacted by the 125th Legislature and is compiled and published under the authority of the Maine Revised Statutes, Title 3, section 163-A. Laws of the State of Maine has been in continuous publication since 1820, when the acts and resolves adopted by the First Legislature were published by the Secretary of State under the authority of Resolve 1820, chapter 25.

Volume 3 contains the public laws, private and special laws and resolves enacted at the First Special Session and the Second Regular Session of the 125th Legislature, followed by the 2011 Revisor's Report, chapter 1 and a selection of significant addresses, joint resolutions and memorials.

Volumes 1 and 2 were published at the conclusion of the First Regular Session of the 125th Legislature and contain legislation enacted during that session.

The following conventions are used throughout the series.

1. At the top of each page is a heading that classifies each law by session of passage, year, type and chapter number.
2. A table of contents that locates major divisions and contents by page number is located at the beginning of each volume.
3. An individual subject index of the documents contained in these volumes, arranged alphabetically by subject heading with corresponding chapter numbers, is located at the end of this volume.
4. Session cross-reference tables are also provided at the end of this volume showing how unallocated public laws, laws exempted in previous revisions and titles and sections of the Maine Revised Statutes of 1964 have been affected by the laws included in this publication.
5. Words and phrases deleted from the statutes are shown struck through. When an entire section or larger segment is repealed, the text that is repealed is not shown struck through, but its repeal is indicated by express language.
6. When new words or sections are added to the statutes, they are underlined.
7. A chaptered law's Legislative Document number is printed beneath its chapter number heading, indicating the source of the chapter.
8. The effective date for Maine laws is provided for in the Constitution of Maine, Article IV, Part Third, Section 16, which specifies that, except for certain emergency legislation, an act or resolve enacted into law takes effect 90 days after the adjournment of the session in which it passed. The general effective date of nonemergency laws passed at the Second Regular Session of the 125th Legislature is August 30, 2012. The effective dates of emergency legislation vary and are provided at the ends of the chapters that were enacted as emergencies.

Copies of a specific chaptered law may be obtained by contacting the Engrossing Division of this office. Laws of the State of Maine is also available online through the website of the Office of the Revisor of Statutes at <http://legislature.maine.gov/ros/lom/lomdirectory.htm>.

This edition of Laws of the State of Maine and its predecessors have been prepared for the convenience of the people of the State of Maine, and any comments or suggestions for improvements in subsequent editions would be appreciated.

Suzanne M. Gresser  
Revisor of Statutes  
August 2012

# LEGISLATIVE STATISTICS

## FIRST SPECIAL SESSION 125th Legislature

Convened .....	September 27, 2011
Adjourned .....	September 27, 2011
Days in Session	
Senate .....	1
House of Representatives .....	1
Legislative Documents .....	3
Public Laws .....	2
Private and Special Laws .....	0
Resolves .....	0
Constitutional Resolutions .....	0
Competing Measure Resolutions .....	0
Initiated Bills .....	0
Vetoed .....	0
Overridden .....	0
Sustained .....	0
Emergency Enactments .....	2
Emergency Passed .....	0
Effective Date .....	September 28, 2011

# LEGISLATIVE STATISTICS

## SECOND REGULAR SESSION 125th Legislature

Convened .....	January 4, 2012
Adjourned .....	May 31, 2012
Days in Session	
Senate .....	51
House of Representatives .....	52
Legislative Documents .....	461
Public Laws .....	236
Private and Special Laws .....	10
Resolves .....	54
Constitutional Resolutions .....	0
Competing Measure Resolutions .....	0
Initiated Bills .....	0
Vetoes .....	12
Overridden .....	2
Sustained .....	10
Emergency Enactments .....	58
Emergency Passed .....	28
Effective Date .....	August 30, 2012 (unless otherwise indicated)

(Note: 134 bills were carried over to the Second Regular Session of the 125th Legislature.)



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PUBLIC LAWS OF THE STATE OF MAINE  
AS PASSED AT  
THE FIRST SPECIAL SESSION OF THE  
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE  
2011

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**CHAPTER 465**

**H.P. 1192 - L.D. 1589**

**An Act To Criminalize  
Possession, Trafficking and  
Furnishing of So-called Bath  
Salts Containing Synthetic  
Hallucinogenic Drugs**

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

**Whereas**, certain synthetic hallucinogenic drugs marketed as bath salts are powerful stimulant drugs that are suspected to have been designed to avoid prosecution and are commonly available on the Internet; and

**Whereas**, a perception exists that these so-called bath salts are a safer alternative to other illegal drugs, but, in fact, the use of bath salts is known to produce a number of severe side effects, including psychosis, organ failure and death; and

**Whereas**, prohibiting the use and possession of these so-called bath salts is an urgent public safety matter; and

**Whereas**, the passage of Public Law 2011, chapter 447 earlier this year has not had the intended effect of reducing the possession and use of these so-called bath salts; 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 §5821, sub-§§1 and 2**, as enacted by PL 1987, c. 420, §2, are amended to read:

**1. Scheduled drugs and synthetic hallucinogenic drugs.** All scheduled drugs ~~which~~ and all synthetic hallucinogenic drugs, as defined in Title 17-A, section 1101, subsection 16-A, that have been manufactured, made, created, grown, cultivated, sold, bartered, traded, furnished for consideration, furnished, distributed, dispensed, possessed or otherwise ac-

quired in violation of any law of this State, any other state or of the United States;

**2. Materials related to scheduled drugs and synthetic hallucinogenic drugs.** All raw materials, products and equipment of any kind ~~which that~~ are used or intended for use in manufacturing, compounding, processing, delivering, cultivating, growing or otherwise creating any scheduled drug or any synthetic hallucinogenic drug, as defined in Title 17-A, section 1101, subsection 16-A, in violation of any law of this State, any other state or the United States;

**Sec. 2. 15 MRSA §5821, sub-§3-A**, as amended by PL 2001, c. 348, §2, is further amended to read:

**3-A. Firearms and other weapons.** Law enforcement officers may seize all firearms and dangerous weapons that they may find in any lawful search for scheduled drugs or synthetic hallucinogenic drugs, as defined in Title 17-A, section 1101, subsection 16-A, in which scheduled drugs or synthetic hallucinogenic drugs are found. Except for those seized weapons listed in a petition filed in the Superior Court pursuant to section 5822, all weapons seized, after notice and opportunity for hearing, must be forfeited to the State by the District Court 90 days after a list of the weapons and drugs seized is filed in the District Court in the district in which the weapons and drugs were seized. A weapon need not be forfeited if the owner appears prior to the declaration of forfeiture and satisfies the court, by a preponderance of evidence, of all of the following:

A. That the owner had a possessory interest in the weapon at the time of the seizure sufficient to exclude every person involved with the seized drugs or every person at the site of the seizure;

B. That the owner had no knowledge of or involvement with the drugs and was not at the site of the seizure; and

C. That the owner had not given any involved person permission to possess or use the weapon.

Post-hearing procedures are as provided in section 5822.

A confiscated or forfeited handgun that was confiscated or forfeited because it was used to commit a homicide must be destroyed by the State unless the handgun was stolen and the rightful owner was not the person who committed the homicide, in which case the handgun must be returned to the owner if ascertain-

able. For purposes of this subsection, "handgun" means a firearm, including a pistol or revolver, designed to be fired by use of a single hand.

**Sec. 3. 15 MRSA §5821, sub-§6**, as amended by PL 1989, c. 302, §1, is further amended to read:

**6. Money instruments.** Except as provided in paragraph A, all money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a scheduled drug or synthetic hallucinogenic drug, as defined in Title 17-A, section 1101, subsection 16-A, in violation of Title 17-A, chapter 45; all proceeds traceable to such an exchange; and all money, negotiable instruments and securities used or intended to be used to facilitate any violation of Title 17-A, chapter 45:

A. No property may be forfeited under this subsection, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner;

**Sec. 4. 15 MRSA §5821, sub-§7**, as amended by PL 2003, c. 688, Pt. B, §2, is further amended to read:

**7. Real property.** Except as provided in paragraph A, all real property, including any right, title or interest in the whole of any lot or tract of land and any appurtenances or improvements, that is used or intended for use, in any manner or part, to commit or to facilitate the commission of a violation of Title 17-A, section 1103, 1105-A, 1105-B or 1105-C, ~~which 1120, 1121 or 1123 that~~ is a Class A, Class B or Class C crime, with the exception of offenses involving marijuana.

A. Property may not be forfeited under this subsection, to the extent of an interest of an owner, by reason of an act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner. When an owner of property that is that person's primary residence proves by a preponderance of the evidence that the owner is the spouse or minor child of the coowner of the primary residence who has used or intended to use the residence, in any manner or part, to commit or facilitate the commission of a violation of Title 17-A, section 1103, 1105-A, 1105-B or 1105-C, 1120, 1121 or 1123, the State shall bear the burden of proving knowledge or consent of the spouse or minor child by a preponderance of the evidence;

**Sec. 5. 17-A MRSA §1101, sub-§16-A** is enacted to read:

**16-A.** "Synthetic hallucinogenic drug" means:

A. 3, 4 - methylenedioxymethcathinone, MDMC;

B. 3, 4 - methylenedioxypropylvalerone, MDPV;

C. 4 - methylmethcathinone, 4-MMC;

D. 4 - methoxymethcathinone, bk-PMMA, PMMC;

E. 3 - fluoromethcathinone, FMC;

F. 4 - fluoromethcathinone, FMC;

G. Naphthylpyrovalerone, NRG-1; or

H. Beta-keto-N-methylbenzodioxolylpropylamine.

**Sec. 6. 17-A MRSA §§1119 to 1123** are enacted to read:

**§1119. Unlawful possession of synthetic hallucinogenic drugs**

1. A person is guilty of unlawful possession of a synthetic hallucinogenic drug if the person intentionally or knowingly possesses what that person knows or believes to be a synthetic hallucinogenic drug, which is in fact a synthetic hallucinogenic drug.

Violation of this subsection is a Class D crime.

2. A person who violates subsection 1 commits a Class C crime if the person has one or more prior convictions for any offense under this chapter or for engaging in substantially similar conduct to that of an offense under this chapter in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this subsection, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years.

**§1120. Unlawful trafficking in synthetic hallucinogenic drugs**

1. A person is guilty of unlawful trafficking in a synthetic hallucinogenic drug if the person intentionally or knowingly trafficks in what the person knows or believes to be a synthetic hallucinogenic drug, which is in fact a synthetic hallucinogenic drug. Violation of this subsection is a Class B crime.

2. If a person uses a motor vehicle to facilitate the trafficking in a synthetic hallucinogenic drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from

any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

**§1121. Aggravated trafficking in synthetic hallucinogenic drugs**

1. A person is guilty of aggravated trafficking in a synthetic hallucinogenic drug if the person violates section 1120 and:

A. The person trafficks in a synthetic hallucinogenic drug with a child who is in fact less than 18 years of age. Violation of this paragraph is a Class A crime;

B. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years. Violation of this paragraph is a Class A crime;

C. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm. Violation of this paragraph is a Class A crime;

D. At the time of the offense, the person is on a school bus or within 1,000 feet of the real property comprising a private or public elementary or secondary school or a safe zone as defined in section 1101, subsection 23. Violation of this paragraph is a Class A crime.

For purposes of this paragraph, "school bus" has the same meaning as in Title 29-A, section 2301, subsection 5;

E. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to traffick in a synthetic hallucinogenic drug. Violation of this paragraph is a Class A crime;

F. Death is in fact caused by the use of that synthetic hallucinogenic drug. Violation of this paragraph is a Class A crime; or

G. Serious bodily injury is in fact caused by the use of that synthetic hallucinogenic drug. Violation of this paragraph is a Class B crime.

2. If a person uses a motor vehicle to facilitate the aggravated trafficking in a synthetic hallucinogenic drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit or privilege to operate a motor vehicle or right to

apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

**§1122. Unlawfully furnishing synthetic hallucinogenic drugs**

1. A person is guilty of unlawful furnishing of a synthetic hallucinogenic drug if the person intentionally or knowingly furnishes what the person knows or believes to be a synthetic hallucinogenic drug, which is in fact a synthetic hallucinogenic drug.

Violation of this subsection is a Class C crime.

2. If a person uses a motor vehicle to facilitate the unlawful furnishing of a synthetic hallucinogenic drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

**§1123. Aggravated furnishing of synthetic hallucinogenic drugs**

1. A person is guilty of aggravated furnishing of a synthetic hallucinogenic drug if the person violates section 1122 and:

A. The person furnishes a synthetic hallucinogenic drug to a child who is in fact less than 18 years of age. Violation of this paragraph is a Class B crime;

B. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in sub-

stantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years. Violation of this paragraph is a Class B crime;

C. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm. Violation of this paragraph is a Class B crime;

D. At the time of the offense, the person is on a school bus or within 1,000 feet of the real property comprising a private or public elementary or secondary school or a safe zone as defined in section 1101, subsection 23. Violation of this paragraph is a Class B crime.

For purposes of this paragraph, "school bus" has the same meaning as in Title 29-A, section 2301, subsection 5;

E. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to furnish a synthetic hallucinogenic drug. Violation of this paragraph is a Class B crime;

F. Death is in fact caused by the use of that synthetic hallucinogenic drug. Violation of this paragraph is a Class B crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished was lawfully possessed by the defendant prior to furnishing and that the death was not a reasonably foreseeable consequence of the use of that synthetic hallucinogenic drug. In determining whether the death was reasonably foreseeable, the fact finder shall consider:

- (1) The factual circumstances surrounding the furnishing of the drug;
- (2) The total quantity of the drug furnished;
- (3) The dosage of the units furnished;
- (4) The nature of the drug;
- (5) The overdose risk presented by use of the drug; and
- (6) Any safety warnings provided to the defendant at the time of dispensing the drug; or

G. Serious bodily injury is in fact caused by the use of that synthetic hallucinogenic drug. Violation of this paragraph is a Class C crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished was lawfully possessed by the defendant prior to furnishing and

that the serious bodily injury was not a reasonably foreseeable consequence of the use of that synthetic hallucinogenic drug. In determining whether the serious bodily injury was reasonably foreseeable, the fact finder shall consider:

- (1) The factual circumstances surrounding the furnishing of the drug;
- (2) The total quantity of the drug furnished;
- (3) The dosage of the units furnished;
- (4) The nature of the drug;
- (5) The overdose risk presented by use of the drug; and
- (6) Any safety warnings provided to the defendant at the time of dispensing the drug.

2. If a person uses a motor vehicle to facilitate the aggravated furnishing of a synthetic hallucinogenic drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

**Sec. 7. 17-A MRSA §1201, sub-§1, ¶A-1,** as amended by PL 2009, c. 573, §3, is further amended to read:

A-1. The conviction is for a Class D or Class E crime other than:

- (1) A Class D or Class E crime relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the defendant had committed a Class A, Class B or Class C crime in the course of that criminal episode and, as agreed upon in writing by the parties and found by the court, the defendant has no prior conviction for murder or for a Class A, Class B or Class C crime and has not been placed on probation pursuant to this subparagraph on any prior occasion;

(2) A Class D crime that the State pleads and proves was committed against a family or household member or a dating partner under chapter 9 or 13 or section 554, 555 or 758. As used in this subparagraph, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4; "dating partner" has the same meaning as in Title 19-A, section 4002, subsection 3-A;

(2-A) A Class D crime under Title 5, section 4659, subsection 1, Title 15, section 321, subsection 6 or Title 19-A, section 4011, subsection 1;

(3) A Class D or Class E crime in chapter 11 or 12;

(4) A Class D crime under section 210-A;

(4-A) A Class E crime under section 552;

(5) A Class D or Class E crime under section 556, section 854, excluding subsection 1, paragraph A, subparagraph (1), or section 855;

(6) A Class D crime in chapter 45 relating to a schedule W drug;

(7) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A, paragraph B; or

(8) A Class D crime under Title 17, section 1031; or

(9) A Class D crime under Title 17-A, section 1119, subsection 1.

**Sec. 8. 22 MRSA §2383-B, sub-§2-A** is enacted to read:

**2-A. Others so authorized.** Except as otherwise provided by law, the following persons are authorized to possess, furnish and have control of synthetic hallucinogenic drugs, as defined in Title 17-A, section 1101, subsection 16-A:

A. Employees or agents of persons lawfully entitled to possession who have temporary, incidental possession while acting within the scope of their employment or agency;

B. Persons whose possession is for the purpose of aiding public officers in performing their official duties while acting within the scope of their employment or duties;

C. Law enforcement officers while acting within the scope of their employment and official duties; and

D. Persons conducting research at a school of pharmacology that is accredited or a candidate for accreditation in good standing.

**Sec. 9. 22 MRSA §2383-B, sub-§3, ¶D-1** is enacted to read:

D-1. "Synthetic hallucinogenic drug" has the same meaning as in Title 17-A, section 1101, subsection 16-A.

**Sec. 10. 22 MRSA §§2390 to 2394**, as enacted by PL 2011, c. 447, §1, are repealed.

**Sec. 11. Appropriations and allocations.** The following appropriations and allocations are made.

**CORRECTIONS, DEPARTMENT OF  
Correctional Impact Reserve N033**

Initiative: Provides funds for the Correctional Impact Reserve program for an anticipated increase in correctional costs as a result of increasing the penalties for synthetic hallucinogenics.

GENERAL FUND	2011-12	2012-13
All Other	\$21,848	\$153,725
<b>GENERAL FUND TOTAL</b>	<b>\$21,848</b>	<b>\$153,725</b>

**CORRECTIONS,  
DEPARTMENT OF  
DEPARTMENT TOTALS**

	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$21,848</b>	<b>\$153,725</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$21,848</b>	<b>\$153,725</b>

**INDIGENT LEGAL SERVICES, MAINE  
COMMISSION ON**

**Maine Commission on Indigent Legal Services  
Z112**

Initiative: Provides funds for the anticipated increase in indigent legal service costs as a result of increasing the penalties related to synthetic hallucinogenics.

GENERAL FUND	2011-12	2012-13
All Other	\$9,167	\$22,000
<b>GENERAL FUND TOTAL</b>	<b>\$9,167</b>	<b>\$22,000</b>

**INDIGENT LEGAL  
SERVICES, MAINE  
COMMISSION ON  
DEPARTMENT TOTALS**

	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$9,167</b>	<b>\$22,000</b>

DEPARTMENT TOTAL - ALL FUNDS	\$9,167	\$22,000
SECTION TOTALS	2011-12	2012-13
GENERAL FUND	\$31,015	\$175,725
SECTION TOTAL - ALL FUNDS	\$31,015	\$175,725

**2. Second District.** The Second District consists of the counties of Androscoggin, Aroostook, Franklin, Hancock, Oxford, Penobscot, Piscataquis, Somerset, Waldo and Washington and the following municipalities and areas within Kennebec County: Albion, Belgrade, Benton, Clinton, Fayette, Gardiner, Litchfield, Monmouth, Mount Vernon, Oakland, Randolph, Rome, Sidney, Vienna, Wayne, West Gardiner and Unity Township.

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

Effective September 28, 2011.

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

Effective September 28, 2011.

**CHAPTER 466**

**H.P. 1195 - L.D. 1590**

**An Act To Reapportion the Congressional Districts of the State**

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

**Whereas,** current law provides for the reapportionment of Maine's congressional districts in 2013; and

**Whereas,** the United States District Court has ruled that Maine may not wait until 2013 to redraw its 2 congressional districts to reflect population shifts, but must instead redraw the districts in time for the congressional election in 2012; 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. 21-A MRSA §1205, sub-§§1 and 2,** as enacted by PL 1993, c. 628, §2, are repealed and the following enacted in their place:

**1. First District.** The First District consists of the counties of Cumberland, Knox, Lincoln, Sagadahoc and York and the following municipalities within Kennebec County: Augusta, Chelsea, China, Farmingdale, Hallowell, Manchester, Pittston, Readfield, Vassalboro, Waterville, Windsor, Winslow and Winthrop.

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PUBLIC LAWS OF THE STATE OF MAINE  
AS PASSED AT  
THE SECOND REGULAR SESSION OF THE  
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE  
2011

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**CHAPTER 467**

**H.P. 1276 - L.D. 1726**

**An Act To Make Technical  
Corrections to the Laws  
Governing the Indian  
Representatives to the  
Legislature**

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

**Whereas,** current law authorizes the inclusion of a representative of the Houlton Band of Maliseet Indians in the Maine House of Representatives beginning with the Second Regular Session of the 125th Legislature in January 2012; and

**Whereas,** this legislation clarifies that, for the Second Regular Session of the 125th Legislature, the member selected to represent the Houlton Band of Maliseet Indians may be appointed rather than elected by the Houlton Band of Maliseet Indians; 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.** PL 2009, c. 636, Pt. A, §3 is amended to read:

**Sec. A-3. Initial Representative of the Houlton Band of Maliseet Indians.** The Tribal Clerk of the Houlton Band of Maliseet Indians shall, on or before the day ~~preceding the meeting of the convening~~ of the Second Regular Session of the 125th Legislature, furnish to the Clerk of the House of Representatives a certification of the name and residence of the ~~Representative elect member~~ of the Houlton Band of Maliseet Indians appointed by the Houlton Band of Maliseet Indians to represent it to the Legislature.

**Sec. 2.** PL 2009, c. 636, Pt. A, §4 is enacted to read:

**Sec. A-4. Salary, expenses and travel of initial Representative of the Houlton Band of Maliseet Indians.** Notwithstanding the Maine Revised Statutes, Title 3, section 2, for the Second Regular Session of the 125th Legislature, the member of the Houlton Band of Maliseet Indians appointed by the Houlton Band of Maliseet Indians to represent it to the Legislature is entitled to a salary equal to the salary of a member of the Senate or House of Representatives.

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

Effective January 4, 2012.

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**CHAPTER 468**

**H.P. 716 - L.D. 972**

**An Act To Provide  
Administrative Support to the  
Citizen Trade Policy  
Commission**

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

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

**LEGISLATURE**

**Legislature 0081**

Initiative: Provides funding for administrative support for the Citizen Trade Policy Commission.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$12,000
GENERAL FUND TOTAL	\$0	\$12,000

See title page for effective date.

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**CHAPTER 469**  
**H.P. 473 - L.D. 643**

**An Act To Protect Public  
Safety in the Operation of  
Casinos**

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

**Whereas**, the operation of a casino has been approved by the voters of Maine; and

**Whereas**, it is in the best interest of the people of the State to have appropriate oversight of the operation of table games at a casino; and

**Whereas**, rules should be in place as soon as possible so as not to delay the operation of table games at a casino; 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. 8 MRSA §1003, sub-§1, ¶J**, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

J. Negotiate consent agreements to resolve administrative violations or investigations; and

**Sec. 2. 8 MRSA §1003, sub-§1, ¶K** is enacted to read:

K. Ensure that public safety inspectors employed by the board assigned to enforce the provisions of this chapter at the site of a casino may, in the absence of a sworn law enforcement officer, detain any person who is suspected of violating any provision of this chapter. Such detention must comply with federal and state laws including the provisions of Title 17-A, section 107.

**Sec. 3. 8 MRSA §1003, sub-§3, ¶G-1** is enacted to read:

G-1. The handling of money, chips, tokens or other items of value used to place bets on table games. The rules must prohibit the use of cash to place bets and ensure that the exchange of cash for chips, tokens or other items of value used to place bets on table games is conducted in a manner that permits thorough auditing;

**Sec. 4. 8 MRSA §1003, sub-§4** is enacted to read:

**4. Rules governing the regulation of table games.** Rules adopted by the board governing the regulation and oversight and monitoring of the operation of table games and the exchange of cash for chips, tokens or other items of value for the purpose of placing bets on table games are major substantive rules in accordance with Title 5, chapter 375, subchapter 2-A. This subsection does not apply to rules governing the method of play of games.

This subsection is repealed December 31, 2014.

**Sec. 5. 8 MRSA §1018, sub-§1**, as amended by IB 2009, c. 2, §34, is further amended to read:

**1. Fees.** The application fee for a license and the annual fee for a registered slot machine or table game under this chapter are as set out in this subsection.

A. The initial registration fee for a registered slot machine is \$100. The annual renewal fee is \$100 for each registered slot machine.

A-1. The initial registration fee for a registered table game is \$100. The annual renewal fee is \$100 for each registered table game.

B. The initial application fee for a slot machine distributor license is \$200,000. The annual renewal fee is \$75,000.

B-1. The initial application fee for a table game distributor license is \$5,000. The annual renewal fee is \$1,000.

C. The initial application fee for a slot machine operator license is \$200,000. The annual renewal fee is \$75,000 plus an amount, set by rules of the board, equal to the cost to the board of licensing slot machine operators and determined by dividing the costs of administering the slot machine operator licenses by the total number of slot machine operators licensed by the board.

C-1. The initial application fee for a casino operator license is \$225,000. The annual renewal fee is \$80,000 plus an amount, set by rules of the board, equal to the cost to the board of licensing casino operators and determined by dividing the costs of administering the casino operator licenses by the total number of casino operators licensed by the board.

D. The annual application fee for a license for a gambling services vendor is \$2,000.

E. The initial application fee for an employee license under section 1015 is \$250. The annual renewal fee is \$25.

In addition to the application fee for a license or annual fee for a registered slot machine or table game, the board may charge a one-time application fee for a license or registration listed in paragraphs A to E in an amount equal to the projected cost of processing the

application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant. All fees collected pursuant to this section must be deposited directly to the General Fund Administrative Expenses Other Special Revenue Funds account, which is a dedicated nonlapsing account within the Gambling Control Board, except that \$25,000 of the annual renewal fee for a slot machine operator or casino operator must be deposited to the Gross Slot Income Other Special Revenue ~~Fund~~ Funds account within the Gambling Control Board to be transferred to the municipality in which the slot machine facility or casino is operated, in accordance with subsection 2. All application and registration fees are nonrefundable and are due upon submission of the application.

**Sec. 6. Exemption of deposit of fees in account of Gambling Control Board.** Notwithstanding the provision of the Maine Revised Statutes, Title 8, section 1018, subsection 1 that requires fees collected pursuant to Title 8, section 1018 to be deposited directly to the Administrative Expenses Other Special Revenue Funds account within the Department of Public Safety, Gambling Control Board, all fees imposed pursuant to Title 8, section 1018, subsection 1, paragraphs A to E that are associated with a casino located in Oxford County licensed pursuant to Title 8, section 1011, subsection 2-A or a slot machine facility licensed as of January 1, 2011 pursuant to Title 8, section 1011, subsection 2 and collected during fiscal years 2011-12 and 2012-13 must be deposited in the General Fund.

**Sec. 7. Gambling Control Board to adopt emergency major substantive rules.** The rules required by this Act are emergency major substantive rules of the Department of Public Safety, Gambling Control Board and must be adopted no later than August 15, 2011. Those same rules must be provisionally adopted and submitted to the Legislature for approval no later than January 13, 2012.

**Sec. 8. Report.** By February 15, 2012, the Department of Public Safety, Gambling Control Board shall report to the joint standing committee of the Legislature having jurisdiction over matters relating to the operation of casinos the process used to develop and adopt rules that prescribe the specific method and rules of play for table games authorized to be conducted at a casino, including comments received from the casino operator and any source used as a model for game play rules.

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

Effective January 9, 2012.

**CHAPTER 470  
H.P. 767 - L.D. 1033**

**An Act To Support Resource Sharing among Maine Libraries**

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

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

**LIBRARY, MAINE STATE**

**Maine State Library 0217**

Initiative: Provides ongoing funding beginning in fiscal year 2012-13 to support weekly van delivery service to help defray the cost of sending and returning items through interlibrary loan to public libraries across the State that participated in the van delivery service in fiscal years 2009-10 and 2010-11.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$100,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$100,000</b>

See title page for effective date.

**CHAPTER 471  
S.P. 350 - L.D. 1150**

**An Act To Improve the Administration of the Legislative Ethics Laws**

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

**Sec. 1. 1 MRSA §1013, sub-§1, ¶B,** as amended by PL 2007, c. 642, §6, is further amended to read:

B. To investigate complaints alleging a violation of legislative ethics against any Legislator, to investigate a possible violation of legislative ethics upon the commission's own motion, to hold hearings on ~~these complaints an~~ alleged or possible violation if the commission determines it is appropriate and to issue findings of fact together with its opinion; and

**Sec. 2. 1 MRSA §1013, sub-§2, ¶B-1,** as enacted by PL 2007, c. 642, §6, is amended to read:

B-1. Any person may file a complaint against a Legislator alleging a violation of legislative ethics

only as described in ~~section~~ sections 1014 and 1015. The complaint must be filed in writing and signed under oath and must specify the facts of the alleged violation citing the specific provisions of sections 1014 and 1015 that are alleged to have been violated, the approximate date of the alleged violation and such other information as the commission requires. A complainant shall agree in writing not to disclose any information about the complaint during the time the commission is determining whether or not to pursue the complaint or during the investigation of a complaint. A complaint that does not meet the criteria of this paragraph is considered incomplete and will not be forwarded to the commission.

(1) The Legislator against whom a complaint is filed must immediately be given a copy of the complaint and the name of the complainant. Before deciding whether to conduct an investigation or to hold any hearings, the commission shall afford the Legislator an opportunity to answer the complaint in writing and in person to the commission. The commission staff may gather preliminary factual information that will assist the commission in deciding whether to conduct a full investigation or to hold hearings.

(2) The commission shall consider only complaints against Legislators in office at the time of the filing of the complaint and only complaints relating to activity that occurred or was ongoing within 2 years of the complaint. Upon a majority vote of the commission, the commission shall conduct an investigation and hold hearings as it determines necessary.

(3) The commission shall issue its findings of fact together with its opinion regarding the alleged violation of legislative ethics to the legislative body of which the Legislator concerned is a member. That legislative body may take whatever action it determines appropriate, in accordance with the Constitution of Maine.

(4) If the commission determines that a Legislator has potentially violated professional standards set by a licensing board, its opinion and such other information as may be appropriate must be referred to the licensing board that oversees the Legislator's professional conduct.

**Sec. 3. 1 MRSA §1013, sub-§2, ¶B-2** is enacted to read:

B-2. If the commission receives information other than through a complaint suggesting that a Legislator may have committed a violation of leg-

islative ethics, the commission may commence an investigation or conduct hearings when there is probable cause to believe that a violation has occurred. The commission may consider only activities by a Legislator in office at the time of the investigation that occurred or were ongoing within 2 years of the investigation. The commission shall provide the Legislator with written notice of the possible violation and an opportunity to be heard in accordance with the requirements of paragraph B-1. The commission's consideration of the possible violation is subject to the confidentiality provisions of subsection 3-A.

**Sec. 4. 1 MRSA §1016-C**, as enacted by PL 1991, c. 880, §2, is amended to read:

**§1016-C. Reports by legislative candidates**

A candidate, as defined in Title 21-A, section 1, subsection 5, for the Legislature who is not required to file a report under section 1016-A ~~or~~, 1016-B or 1016-E shall file a report containing the same information required of Legislators under sections 1016-A ~~and~~, 1016-B and 1016-E no later than 5 p.m. on the first Monday in August preceding the general election unless the candidate withdraws from the election in accordance with Title 21-A, section 374-A by that date.

**Sec. 5. 1 MRSA §1019, 2nd ¶**, as amended by PL 1977, c. 252, §5, is further amended to read:

If the commission determines that a Legislator has willfully failed to file a statement required by this subchapter or has willfully filed a false statement, the Legislator ~~shall be~~ is presumed to have a conflict of interest ~~on every question and shall be precluded or punished as provided in section 1015~~ 1014 on every question.

See title page for effective date.

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**CHAPTER 472**

**H.P. 1229 - L.D. 1639**

**An Act To Allow the Adjutant  
General To Address a Joint  
Session of the Legislature**

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

**Whereas**, this legislation authorizes the President of the Senate and the Speaker of the House of Representatives to invite the Adjutant General to appear in February of each year to address a joint session of the Legislature; and

**Whereas**, in order to authorize the appearance of the Adjutant General before the Legislature in February of 2012, it is necessary that this legislation be an emergency measure; 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. 37-B MRSA §10** is enacted to read:

**§10. Report by Adjutant General**

The President of the Senate and the Speaker of the House of Representatives may invite the Adjutant General to appear in February of each year before a joint session of the Legislature to address the Legislature on defense, veterans' services and emergency management matters and such other matters as the Adjutant General desires to bring to the attention of the Legislature.

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

Effective February 10, 2012.

**CHAPTER 473**

**H.P. 1197 - L.D. 1592**

**An Act To Update the Laws Concerning the Maine School of Science and Mathematics**

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

**Sec. 1. 20-A MRSA §8201**, as amended by PL 1995, c. 485, §1, is further amended to read:

**§8201. School established**

The Maine School of Science and Mathematics is established as a public, ~~chartered magnet~~ school pursuant to this chapter for the purpose of providing certain high-achieving high school students with a challenging educational experience. The school is a body politic and corporate and is an instrumentality and agency of the State. The exercise by the school of the powers conferred by this chapter is the performance of an essential public function by and on behalf of the State.

**Sec. 2. 20-A MRSA §8203, sub-§2**, as enacted by PL 1993, c. 706, Pt. A, §4, is amended to read:

**2. Magnet school.** "~~Chartered Magnet~~ school" means that the school may establish rules and regulations that delete, modify or add to current rules and regulations of the department.

**Sec. 3. 20-A MRSA §8204, sub-§1, ¶J**, as enacted by PL 1993, c. 706, Pt. A, §4, is amended to read:

J. The ~~superintendent~~ executive director of the school, who serves as the clerk of the board of trustees and is a nonvoting member.

See title page for effective date.

**CHAPTER 474**

**H.P. 1228 - L.D. 1638**

**An Act To Enhance the Duties and Responsibilities of the Director of the Division for the Deaf, Hard of Hearing and Late Deafened**

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

**Sec. 1. 26 MRSA §1413-B, sub-§1-A** is enacted to read:

**1-A. Supervise vocational rehabilitation counselors for the deaf.** Provide direct supervision and oversight of vocational rehabilitation counselors who provide counseling to deaf, hard-of-hearing and late-deafened persons and who are within the division of vocational rehabilitation within the Bureau of Rehabilitation Services;

**Sec. 2. 26 MRSA §1413-E**, as amended by PL 2009, c. 174, §19, is further amended to read:

**§1413-E. Director of the Division for the Deaf, Hard of Hearing and Late Deafened**

**1. Director.** ~~The Director of the Bureau of Rehabilitation Services shall appoint the Director of the Division for the Deaf, Hard of Hearing and Late Deafened, who is responsible for administering the Division for the Deaf, Hard of Hearing and Late Deafened and its programs and policies, including generating and seeking out financial aid, grants and money and overseeing vocational rehabilitation counselors who provide counseling to deaf, hard-of-hearing and late-deafened persons and who are within the division of vocational rehabilitation within the Bureau of Rehabilitation Services.~~

**2. Director of the Division for the Deaf, Hard of Hearing and Late Deafened; staff; qualifications.** The Director of the Division for the Deaf, Hard of Hearing and Late Deafened and the staff must be knowledgeable of the needs of the deaf, ~~hard-of-hear-~~

~~ing~~ hard-of-hearing and ~~late-deafened~~ late-deafened persons and possess the ability to communicate on a meaningful basis with those persons.

See title page for effective date.

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## CHAPTER 475

### H.P. 1218 - L.D. 1609

#### An Act To Ensure the Safety of Bait Used in Maine's Fishery

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

**Whereas,** local sources of bait are scarce and lobstermen are being driven to expand their search for bait; and

**Whereas,** the importation of marine and freshwater fish to be used as bait from various parts of the world may pose a risk to Maine's marine environment; and

**Whereas,** the fishing industry and marine scientists are concerned that Maine's lobster resource and other fisheries could be endangered by the introduction of this bait if it is contaminated by pathogens; and

**Whereas,** action must be taken immediately to prevent the use of bait that presents an unacceptable risk to Maine's marine environment and Maine's fisheries; 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. 12 MRSA §6432-A, sub-§2,** as enacted by PL 2005, c. 203, §2 and affected by §3, is amended to read:

**2. Prima facie evidence.** The possession of offal or a marine organism prohibited pursuant to subsection 4 while fishing for or taking lobster or crabs is prima facie evidence of a violation of this section.

**Sec. 2. 12 MRSA §6432-A, sub-§§3 to 5** are enacted to read:

**3. Exception for freshwater organisms.** Notwithstanding subsection 1, a person may use a freshwater organism as bait to fish for or take lobster or crabs if that freshwater organism and the location from which that freshwater organism has been harvested

have been identified as acceptable on a list maintained by the commissioner pursuant to subsection 5.

**4. Use of marine organism as bait.** The commissioner may prohibit the use of marine organisms as bait to fish for or take lobster or crabs. A marine organism prohibited pursuant to this subsection and the location from which that marine organism is harvested must be identified on a list maintained by the commissioner pursuant to subsection 5.

**5. Lists of freshwater organisms acceptable as bait and prohibited marine organisms.** The commissioner may maintain a list of freshwater organisms that are acceptable as bait to fish for or take lobster or crabs, including the location from which those freshwater organisms are harvested. The commissioner may maintain a list of marine organisms that are prohibited as bait to fish for or take lobster or crabs, including the location from which those marine organisms are harvested. The commissioner may adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A that contain the criteria for inclusion on the lists.

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

Effective February 22, 2012.

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## CHAPTER 476

### S.P. 533 - L.D. 1623

#### An Act To Simplify Toll Discounts and Amend Certain Powers and Procedures of the Maine Turnpike Authority

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

**Whereas,** electronic tolling has rendered obsolete a 1981 statute requiring the Maine Turnpike Authority to offer a specific form of commuter discount; and

**Whereas,** the lingering mandate severely interferes with the turnpike authority's ability to deploy modern electronic toll systems; and

**Whereas,** effective use of electronic tolls is essential to yield greater traffic capacity at certain congested turnpike toll plazas; and

**Whereas,** an immediate resolution of these issues would permit the turnpike authority to offer improved service and simpler discounts to a broader cross-section of travelers without requiring them to make quarterly advance payments which might other-

wise be required before the end of the 90-day period; 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. 23 MRSA §1961, sub-§7**, as enacted by PL 2011, c. 302, §4, is amended to read:

**7. Funds for department projects.** As part of the budget presented in subsection 6, the authority shall allocate funds for department projects in an amount such that the 3-year rolling average of the allocation equals at least 5% of annual operating revenues. The requirement under this subsection is subordinate to the authority's obligation to pay operating expenses and to meet the requirements of any resolution authorizing bonds of the authority. All department projects are subject to mutual agreement of the authority and the department.

For purposes of this subsection, annual operating revenues do not include any interest earned from the authority's capital and debt service reserve funds or the amount of tolls or other income that is discounted, rebated or refunded by the authority.

**Sec. 2. 23 MRSA §1963**, as amended by PL 1993, c. 410, Pt. MM, §1, is further amended to read:

**§1963. Maine Turnpike Authority**

In order to carry out the purposes of this chapter, the Maine Turnpike Authority, created by Private and Special Law 1941, chapter 69, ~~shall continue~~ continues in existence with the powers and duties prescribed by this chapter until the Legislature provides for its termination and all outstanding indebtedness of the authority is repaid, or an amount sufficient to repay that indebtedness is set aside in trust. The authority shall continue to operate and maintain the turnpike from a point at or near Kittery in York County to a point at or near Augusta in Kennebec County, ~~together with connecting tunnels, bridges, overpasses, underpasses, interchanges and toll facilities.~~ The authority may operate and maintain other property and assets as are necessary or convenient for the construction, operation or maintenance of the turnpike, including, but not limited to, connecting tunnels, bridges, overpasses, underpasses, interchanges, toll facilities and parking lots.

**Sec. 3. 23 MRSA §1964, sub-§6**, as enacted by PL 1981, c. 595, §3, is amended to read:

**6. Operating revenues.** "Operating revenues" means ~~funds available to~~ income of the Maine Turn-

pike Authority from fees, fares, tolls, rental of concessions and miscellaneous revenue and interest ~~not otherwise pledged or dedicated.~~

**Sec. 4. 23 MRSA §1973, sub-§4**, as amended by PL 1995, c. 410, §§1 and 2, is further amended to read:

**4. Rates.** The rate of toll at each toll facility may be revised from time to time.

~~A. The authority shall establish a system of commuter discounts to provide passenger vehicles with reduced rates that may not exceed 50% of the normal passenger vehicle toll.~~

A-1. The authority is prohibited from imposing variable surcharges based on the time of day. ~~Notwithstanding any other provisions of law, the evaluation of congestion pricing as a reasonable transportation alternative to widening or expansion of the Maine Turnpike to 3 lanes in each direction from Exit 1 to Exit 6A on a projected basis without actual implementation of congestion pricing on a demonstration basis meets the criteria of section 73 and chapter 24.~~

B. ~~Reduced~~ A reduction in the rates of fees, fares and tolls ~~shall~~ may be made given to any class of vehicle based upon volume of use.

**Sec. 5. 23 MRSA §1980, sub-§2-A, ¶C**, as repealed and replaced by PL 2003, c. 591, §2, is amended to read:

C. The following procedures must be followed for the collection of tolls, administrative fees and civil penalties under this subsection.

(1) The authority shall send a notice of liability by ~~certified first class mail, return receipt requested,~~ to a person alleged to be liable as a registered owner under this subsection. The notice must be sent to the address of the registered owner on record with the authority if the registered owner is an electronic toll collection patron of the authority or, if no such record exists, the address of the registered owner on record with the Secretary of State. ~~A record of the certified mailing written statement by the authority that the notice of liability has been mailed~~ is prima facie evidence of the mailing of the notice.

(2) A notice of liability must include the name and address of the person alleged to be liable as a registered owner for the failure to pay a toll under this subsection, the amount of the toll not paid, the registration number of the vehicle involved, the toll collection facility at which the failure occurred and the date and the approximate time of the failure. The notice must also include the name, address and telephone number of the violation clerk

responsible for enforcing the penalty for the failure to pay.

(3) A notice of liability must include information advising the person liable under this subsection of the manner and time in which the liability alleged in the notice may be contested and the statutory defenses described in paragraph E. The notice must also include a warning that failure to contest in the manner and time provided is an admission of liability and a waiver of available defenses and may result in revocation of the registration certificate and plates issued for the vehicle.

(4) Within 30 calendar days after the date of the issuance of the notice of liability, the registered owner to whom the notice is issued must:

- (a) Pay the amount of the toll for which the person is liable, the civil penalty or penalties provided for in paragraph A and an administrative fee of \$20 for each toll for which the person is liable but has not paid;
- (b) Send a written dispute by mail to the violation clerk named in the notice, as provided by paragraph I; or
- (c) Request a hearing with the violation clerk named in the notice as provided by paragraph J.

**Sec. 6. 23 MRSA §1980, sub-§2-A, ¶G,** as amended by PL 2011, c. 302, §17, is further amended to read:

G. The authority shall notify the Secretary of State, who shall, in accordance with Title 29-A, section 154, subsection 6, suspend the registration certificate and plates issued for the vehicle involved in the alleged failure to pay if a registered owner:

- (1) Does not dispute a notice of liability ~~and~~ ~~or~~ pay the tolls, administrative fees and civil penalties as required by paragraph C, subparagraph (4);
- (2) Does not pay the required tolls, administrative fees and civil penalties within 30 days of a final decision of a violation clerk as provided in paragraphs I and J;
- (3) Does not pay the required tolls, administrative fees and civil penalties within 30 days of final adjudication of liability under paragraph K; or
- (4) Does not pay the required tolls, administrative fees or civil penalties within 30 days of final adjudication of liability by an away agency with whom the authority has a recip-

rocal collection arrangement under subsection 2-C.

When notifying the Secretary of State under this paragraph, the authority shall send a notice by ~~certified first class mail, return receipt requested,~~ informing the registered owner of the pending suspension.

**Sec. 7. 23 MRSA §1980, sub-§2-A, ¶H,** as repealed and replaced by PL 2003, c. 591, §2, is repealed.

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

Effective February 22, 2012.

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## CHAPTER 477

### H.P. 1339 - L.D. 1816

#### **An Act To Implement the Recommendations of the Streamline and Prioritize Core Government Services Task Force for the Fiscal Years Ending June 30, 2012 and June 30, 2013 and To Make Certain Other Allocations and Appropriations and Changes to the Law Necessary to the Operation of State Government**

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

**Whereas,** the 90-day period may not terminate until after the beginning of the next fiscal year; and

**Whereas,** certain obligations and expenses incidental to the operation of state departments and institutions will become due and payable immediately in order to achieve savings authorized in this Act; 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. Appropriations and allocations.**  
The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Administration - Human Resources 0038**

Initiative: Reduces funding for in-state travel, copying, postage, employee training and the purchase of office supplies and eliminates funding for publications and subscriptions.

GENERAL FUND	2011-12	2012-13
All Other	(\$14,000)	(\$14,000)
<b>GENERAL FUND TOTAL</b>	<b>(\$14,000)</b>	<b>(\$14,000)</b>

**Buildings and Grounds Operations 0080**

Initiative: Eliminates one vacant Carpenter position and one vacant Institutional Custodial Worker position.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(2,000)	(2,000)
Personal Services	(\$89,808)	(\$90,054)
<b>GENERAL FUND TOTAL</b>	<b>(\$89,808)</b>	<b>(\$90,054)</b>

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Offsets the amount of funds deappropriated in Public Law 2011, chapter 380, Part KKK to recognize the distribution of savings recommended by the Streamline and Prioritize Core Government Services Task Force to departments and agencies statewide.

GENERAL FUND	2011-12	2012-13
Unallocated	\$0	\$25,000,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$25,000,000</b>

**Information Services 0155**

Initiative: Reduces funding for storage savings achieved in the financial data warehouse and time and attendance management system.

GENERAL FUND	2011-12	2012-13
All Other	(\$48,571)	(\$114,418)
<b>GENERAL FUND TOTAL</b>	<b>(\$48,571)</b>	<b>(\$114,418)</b>

**Information Services 0155**

Initiative: Reduces funding for the reduction in the number of paper checks issued to vendors.

GENERAL FUND	2011-12	2012-13
All Other	(\$5,500)	(\$10,000)
<b>GENERAL FUND TOTAL</b>	<b>(\$5,500)</b>	<b>(\$10,000)</b>

**Office of the Commissioner - Administrative and Financial Services 0718**

Initiative: Reduces funding for retirement savings.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	(\$8,166)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$8,166)</b>

**Public Improvements - Planning/Construction - Administration 0057**

Initiative: Reduces funding for design work that is currently performed by outside contractors that will now be performed in house.

GENERAL FUND	2011-12	2012-13
All Other	(\$8,500)	(\$8,500)
<b>GENERAL FUND TOTAL</b>	<b>(\$8,500)</b>	<b>(\$8,500)</b>

**Purchases - Division of 0007**

Initiative: Reduces funding for professional services for temporary staffing that will no longer be used on a surge capacity basis.

GENERAL FUND	2011-12	2012-13
All Other	(\$4,352)	(\$5,000)
<b>GENERAL FUND TOTAL</b>	<b>(\$4,352)</b>	<b>(\$5,000)</b>

**Revenue Services - Bureau of 0002**

Initiative: Reduces funding as a result of a platform conversion that will combine 2 existing data warehouses within Maine Revenue Services.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$178,200)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$178,200)</b>

**Revenue Services - Bureau of 0002**

Initiative: Reduces funding for the removal of 6 servers to phase out an old imaging system and to consolidate servers in Maine Revenue Services.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$35,880)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$35,880)</b>

**Revenue Services - Bureau of 0002**

Initiative: Eliminates funding for a consulting contract supporting Maine Revenue Services imaging systems.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$163,200)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$163,200)</b>

**Revenue Services - Bureau of 0002**

Initiative: Reduces funding of Maine Revenue Services telefile system software maintenance agreement to reflect current cost.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$17,500)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$17,500)</b>

**Revenue Services - Bureau of 0002**

Initiative: Reduces funding for postage costs by better managing the distribution of tax booklets and mailings and by directing consumers to the Internet.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$90,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$90,000)</b>

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>(\$170,731)</b>	<b>\$24,265,082</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$170,731)</b>	<b>\$24,265,082</b>

**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

**Division of Quality Assurance and Regulation 0393**

Initiative: Eliminates one Metrologist Assistant position from the Division of Quality Assurance and Regulation program and related All Other funding in the Office of the Commissioner program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$57,241)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$57,241)</b>

**Office of the Commissioner 0401**

Initiative: Eliminates one Metrologist Assistant position from the Division of Quality Assurance and Regulation program and related All Other funding in the Office of the Commissioner program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$8,257)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$8,257)</b>

**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$65,498)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$65,498)</b>

**ARTS COMMISSION, MAINE**

**Arts - Administration 0178**

Initiative: Reduces funding for arts-related conferences, gatherings and exhibitions.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$6,479)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$6,479)</b>

**ARTS COMMISSION, MAINE**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$6,479)</b>

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$6,479)</b>
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**ATLANTIC STATES MARINE FISHERIES COMMISSION**

**Atlantic States Marine Fisheries Commission 0028**

Initiative: Reduces funding for dues to the Atlantic States Marine Fisheries Commission.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$777)
<hr/>		
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$777)</b>

**ATLANTIC STATES MARINE FISHERIES COMMISSION**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$777)</b>

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$777)</b>
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**ATTORNEY GENERAL, DEPARTMENT OF THE**

**Administration - Attorney General 0310**

Initiative: Reallocates the cost of one Senior Attorney General position from 70% General Fund and 30% Other Special Revenue Funds to 100% Other Special Revenue Funds.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	(\$40,791)	(\$42,415)
<hr/>		
<b>GENERAL FUND TOTAL</b>	<b>(\$40,791)</b>	<b>(\$42,415)</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$40,791	\$42,415
<hr/>		
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$40,791</b>	<b>\$42,415</b>

**ATTORNEY GENERAL, DEPARTMENT OF THE DEPARTMENT TOTALS**

	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>(\$40,791)</b>	<b>(\$42,415)</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$40,791</b>	<b>\$42,415</b>

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>
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**AUDIT, DEPARTMENT OF**

**Audit - Departmental Bureau 0067**

Initiative: Reduces funding for office and other supplies.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$452)
<hr/>		
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$452)</b>

**AUDIT, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$452)</b>

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$452)</b>
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**CENTERS FOR INNOVATION**

**Centers for Innovation 0911**

Initiative: Reduces funding for grants.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$3,247)
<hr/>		
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$3,247)</b>

**CENTERS FOR INNOVATION**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$3,247)</b>

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$3,247)</b>
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**COMMUNITY COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE MAINE**

**Maine Community College System - Board of Trustees 0556**

Initiative: Reduces funding for staff salaries.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$664,292)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$664,292)</b>

**COMMUNITY COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE MAINE**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$664,292)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$664,292)</b>

**CONSERVATION, DEPARTMENT OF Land Use Regulation Commission 0236**

Initiative: Eliminates one Environmental Technician position.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	(\$52,100)	(\$53,596)
<b>GENERAL FUND TOTAL</b>	<b>(\$52,100)</b>	<b>(\$53,596)</b>

**Office of the Commissioner 0222**

Initiative: Eliminates funding for contracted outreach services for forest certification.

GENERAL FUND	2011-12	2012-13
All Other	(\$75,000)	(\$75,000)
<b>GENERAL FUND TOTAL</b>	<b>(\$75,000)</b>	<b>(\$75,000)</b>

**CONSERVATION, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>(\$127,100)</b>	<b>(\$128,596)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$127,100)</b>	<b>(\$128,596)</b>

**CORRECTIONS, STATE BOARD OF**

**State Board of Corrections Investment Fund Z087**

Initiative: Reduces funding for the operation of county jails.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$335,513)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$335,513)</b>

**CORRECTIONS, STATE BOARD OF**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$335,513)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$335,513)</b>

**CULTURAL AFFAIRS COUNCIL, MAINE STATE**

**New Century Program Fund 0904**

Initiative: Reduces funding for matching grants.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,085)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,085)</b>

**CULTURAL AFFAIRS COUNCIL, MAINE STATE**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$1,085)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$1,085)</b>

**DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF**

**Military Training and Operations 0108**

Initiative: Eliminates one Maintenance Mechanic position.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	(\$54,836)	(\$55,185)
<b>GENERAL FUND TOTAL</b>	<b>(\$54,836)</b>	<b>(\$55,185)</b>

**DEFENSE, VETERANS  
AND EMERGENCY  
MANAGEMENT,  
DEPARTMENT OF  
DEPARTMENT TOTALS**

	2011-12	2012-13
GENERAL FUND	(\$54,836)	(\$55,185)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$54,836)</b>	<b>(\$55,185)</b>

**DEVELOPMENT FOUNDATION, MAINE  
Development Foundation 0198**

Initiative: Reduces funding for the Realize Maine Network.

	2011-12	2012-13
GENERAL FUND		
All Other	\$0	(\$1,608)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,608)</b>

**DEVELOPMENT  
FOUNDATION, MAINE  
DEPARTMENT TOTALS**

	2011-12	2012-13
GENERAL FUND	\$0	(\$1,608)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$1,608)</b>

**DISABILITY RIGHTS CENTER  
Disability Rights Center 0523**

Initiative: Reduces funding for the Disability Rights Center.

	2011-12	2012-13
GENERAL FUND		
All Other	\$0	(\$3,468)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$3,468)</b>

**DISABILITY RIGHTS  
CENTER  
DEPARTMENT TOTALS**

	2011-12	2012-13
GENERAL FUND	\$0	(\$3,468)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$3,468)</b>

**DOWNEAST INSTITUTE FOR APPLIED  
MARINE RESEARCH AND EDUCATION**

**Downeast Institute for Applied Marine Research  
and Education 0993**

Initiative: Reduces funding for grants.

	2011-12	2012-13
GENERAL FUND		
All Other	\$0	(\$345)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$345)</b>

**DOWNEAST INSTITUTE  
FOR APPLIED MARINE  
RESEARCH AND  
EDUCATION**

	2011-12	2012-13
DEPARTMENT TOTALS		
GENERAL FUND	\$0	(\$345)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$345)</b>

**ECONOMIC AND COMMUNITY  
DEVELOPMENT, DEPARTMENT OF**

**Applied Technology Development Center System  
0929**

Initiative: Reduces funding for the technology center program.

	2011-12	2012-13
GENERAL FUND		
All Other	\$0	(\$6,635)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$6,635)</b>

**International Commerce 0674**

Initiative: Reduces funding for grants.

	2011-12	2012-13
GENERAL FUND		
All Other	\$0	(\$18,490)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$18,490)</b>

**Maine Economic Growth Council 0727**

Initiative: Reduces funding for annual payments to the Maine Development Foundation.

	2011-12	2012-13
GENERAL FUND		
All Other	\$0	(\$2,055)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$2,055)</b>

**Office of Innovation 0995**

Initiative: Reduces funding for grants for the Maine Technology Institute and also reduces Personal Services funding by downgrading one Public Service Executive II position to one Public Service Coordinator position, which was part of a departmentwide reorganization.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	(\$22,012)
All Other	\$0	(\$228,896)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$250,908)</b>

**ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF DEPARTMENT TOTALS**

	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$278,088)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$278,088)</b>

**EDUCATION, DEPARTMENT OF**

**Adult Education 0364**

Initiative: Reduces funding for contractual services for a data system.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$102,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$102,000)</b>

**Child Development Services 0449**

Initiative: Reduces funding by recognizing savings from elimination of the "parent choice" portion of the program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$850,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$850,000)</b>

**General Purpose Aid for Local Schools 0308**

Initiative: Reduces funding for state support of the minimum teacher salary.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$350,000)

<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$350,000)</b>
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**General Purpose Aid for Local Schools 0308**

Initiative: Reduces funding to better align resources with anticipated expenses in fiscal year 2011-12.

GENERAL FUND	2011-12	2012-13
All Other	(\$2,000,000)	\$0
<b>GENERAL FUND TOTAL</b>	<b>(\$2,000,000)</b>	<b>\$0</b>

**PK-20, Adult Education and Federal Programs Team Z081**

Initiative: Reduces funding for contractual services to achieve savings based on a comprehensive review and analysis of the contracted services required for this program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$100,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$100,000)</b>

**School Finance and Operations Z078**

Initiative: Reduces funding for technology costs from projected savings in the use of computer, telephone and other data system maintenance services provided by the Department of Administrative and Financial Services, Office of Information Technology and non-state providers.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$150,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$150,000)</b>

**EDUCATION, DEPARTMENT OF DEPARTMENT TOTALS**

	2011-12	2012-13
<b>GENERAL FUND</b>	<b>(\$2,000,000)</b>	<b>(\$1,552,000)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$2,000,000)</b>	<b>(\$1,552,000)</b>

**EDUCATION, STATE BOARD OF**

**State Board of Education 0614**

Initiative: Reduces funding for board members' travel reimbursement.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$2,099)

GENERAL FUND TOTAL	\$0	(\$2,099)
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<b>EDUCATION, STATE BOARD OF</b>		
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<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	(\$2,099)

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$2,099)</b>
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**ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

**Land and Water Quality 0248**

Initiative: Eliminates one Environmental Specialist IV position.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$73,963)

GENERAL FUND TOTAL	\$0	(\$73,963)
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**ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	(\$73,963)

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$73,963)</b>
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**ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL**

**Governmental Ethics and Election Practices - Commission on 0414**

Initiative: Reduces funding in general operations to stay within budgeted resources.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$255)

GENERAL FUND TOTAL	\$0	(\$255)
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**ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
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GENERAL FUND	\$0	(\$255)
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<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$255)</b>
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**EXECUTIVE DEPARTMENT**

**Blaine House 0072**

Initiative: Recognizes salary savings from the hiring for positions at levels that are lower than are authorized in the budget.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$16,034)

GENERAL FUND TOTAL	\$0	(\$16,034)
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**Planning Office 0082**

Initiative: Reduces funding for professional services contracted for project work.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$9,841)

GENERAL FUND TOTAL	\$0	(\$9,841)
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**EXECUTIVE DEPARTMENT**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
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GENERAL FUND	\$0	(\$25,875)
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<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$25,875)</b>
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**FINANCE AUTHORITY OF MAINE**

**Student Financial Assistance Programs 0653**

Initiative: Reduces funding for student financial assistance.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$297,020)

GENERAL FUND TOTAL	\$0	(\$297,020)
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**FINANCE AUTHORITY OF MAINE**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$297,020)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$297,020)</b>

**FOUNDATION FOR BLOOD RESEARCH**

**ScienceWorks for ME 0908**

Initiative: Reduces funding for the ScienceWorks for ME program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$1,436)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,436)</b>

**FOUNDATION FOR BLOOD RESEARCH**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$1,436)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$1,436)</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)**

**Crisis Outreach Program Z136**

Initiative: Transfers 7 Mental Health and Mental Retardation Caseworker positions, 3 Regional Supervisor positions, 33 Mental Health Worker III positions and one Mental Retardation Trainer position from 100% General Fund in the Developmental Services - Community program to 52.4% General Fund and 47.6% Other Special Revenue Funds in the Crisis Outreach Program and related All Other costs.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	44,000	44,000
Personal Services	\$472,085	\$1,498,515
All Other	\$0	\$117,900
<b>GENERAL FUND TOTAL</b>	<b>\$472,085</b>	<b>\$1,616,415</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$428,840	\$1,361,271

All Other	\$0	\$107,100
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$428,840</b>	<b>\$1,468,371</b>

**Developmental Services - Community 0122**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$24,348)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$24,348)</b>

**Developmental Services - Community 0122**

Initiative: Reduces funding for rent by closing the smaller Machias office and consolidating staff at the larger office building.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$15,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$15,000)</b>

**Developmental Services - Community 0122**

Initiative: Transfers 7 Mental Health and Mental Retardation Caseworker positions, 3 Regional Supervisor positions, 33 Mental Health Worker III positions and one Mental Retardation Trainer position from 100% General Fund in the Developmental Services - Community program to 52.4% General Fund and 47.6% Other Special Revenue Funds in the Crisis Outreach Program and related All Other costs.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	(44,000)	(44,000)
Personal Services	(\$900,925)	(\$2,859,761)
All Other	\$0	(\$256,654)
<b>GENERAL FUND TOTAL</b>	<b>(\$900,925)</b>	<b>(\$3,116,415)</b>

**Developmental Services - Community 0122**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$19,996)	(\$19,996)
<b>GENERAL FUND TOTAL</b>	<b>(\$19,996)</b>	<b>(\$19,996)</b>

**Disproportionate Share - Dorothea Dix Psychiatric Center 0734**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

GENERAL FUND	2011-12	2012-13
All Other	(\$5,919)	(\$5,919)
<b>GENERAL FUND TOTAL</b>	<b>(\$5,919)</b>	<b>(\$5,919)</b>

**Dorothea Dix Psychiatric Center 0120**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$146)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$146)</b>

**Driver Education and Evaluation Program - Substance Abuse 0700**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

GENERAL FUND	2011-12	2012-13
All Other	(\$3,999)	(\$3,999)
<b>GENERAL FUND TOTAL</b>	<b>(\$3,999)</b>	<b>(\$3,999)</b>

**Mental Health Services - Children 0136**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$2,429)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$2,429)</b>

**Mental Health Services - Children 0136**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

GENERAL FUND	2011-12	2012-13
All Other	(\$7,998)	(\$7,998)
<b>GENERAL FUND TOTAL</b>	<b>(\$7,998)</b>	<b>(\$7,998)</b>

**Mental Health Services - Community 0121**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$30,922)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$30,922)</b>

**Mental Health Services - Community 0121**

Initiative: Reduces funding for rent by closing the smaller Machias office and consolidating staff at the larger office building.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$15,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$15,000)</b>

**Mental Health Services - Community 0121**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

GENERAL FUND	2011-12	2012-13
All Other	(\$11,998)	(\$11,998)
<b>GENERAL FUND TOTAL</b>	<b>(\$11,998)</b>	<b>(\$11,998)</b>

**Riverview Psychiatric Center 0105**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$74)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$74)</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>(\$478,750)</b>	<b>(\$1,637,829)</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$428,840</b>	<b>\$1,468,371</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$49,910)</b>	<b>(\$169,458)</b>

**HEALTH AND HUMAN SERVICES,  
DEPARTMENT OF (FORMERLY DHS)**

**Bureau of Child and Family Services - Central  
0307**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$9,890)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$9,890)</b>

**Bureau of Child and Family Services - Regional  
0452**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

GENERAL FUND	2011-12	2012-13
All Other	(\$35,993)	(\$35,993)
<b>GENERAL FUND TOTAL</b>	<b>(\$35,993)</b>	<b>(\$35,993)</b>

**Bureau of Family Independence - Regional 0453**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

GENERAL FUND	2011-12	2012-13
All Other	(\$15,997)	(\$15,997)
<b>GENERAL FUND TOTAL</b>	<b>(\$15,997)</b>	<b>(\$15,997)</b>

**Bureau of Medical Services 0129**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$2,871)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$2,871)</b>

**Bureau of Medical Services 0129**

Initiative: Reduces funding for rent by terminating the lease at 442 Civic Center Drive in Augusta.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$288,235)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$288,235)</b>

**Bureau of Medical Services 0129**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

GENERAL FUND	2011-12	2012-13
All Other	(\$11,998)	(\$11,998)
<b>GENERAL FUND TOTAL</b>	<b>(\$11,998)</b>	<b>(\$11,998)</b>

**Bureau of Medical Services 0129**

Initiative: Eliminates one Public Service Coordinator I position funded 50% in the State-funded Foster Care/Adoption Assistance program and 50% in the Bureau of Medical Services program and reduces funding for supplemental services for children with complex emotional and behavioral needs.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$44,288)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$44,288)</b>

**Child Support 0100**

Initiative: Provides funding for information technology system changes necessary to collect a \$2 transaction fee for each payroll deduction for child support received by the Division of Support Enforcement and Recovery.

GENERAL FUND	2011-12	2012-13
All Other	\$11,856	\$0
<b>GENERAL FUND TOTAL</b>	<b>\$11,856</b>	<b>\$0</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$23,015	\$0
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$23,015</b>	<b>\$0</b>

**Child Support 0100**

Initiative: Reduces funding for rent by terminating the lease at 442 Civic Center Drive in Augusta.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$41,459)

GENERAL FUND TOTAL	\$0	(\$41,459)
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**Child Support 0100**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$1,320)	(\$1,320)

GENERAL FUND TOTAL	(\$1,320)	(\$1,320)
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**Child Support 0100**

Initiative: Reduces funding to reflect the net savings from collecting a \$25 annual fee in certain child support custodial cases. Savings of \$110,000 in the Temporary Assistance for Needy Families program are offset by a one-time cost in the Child Support program to implement the necessary information technology changes. This initiative will also increase General Fund undedicated revenue by \$55,000 annually.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$10,757

GENERAL FUND TOTAL	\$0	\$10,757
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<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$20,886

FEDERAL EXPENDITURES FUND TOTAL	\$0	\$20,886
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**Departmentwide 0640**

Initiative: Reduces funding for contracts through the elimination of inefficiencies and the identification of excess funding.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$2,000,000)

GENERAL FUND TOTAL	\$0	(\$2,000,000)
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**Division of Licensing and Regulatory Services Z036**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$1,596)

GENERAL FUND TOTAL	\$0	(\$1,596)
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**Division of Licensing and Regulatory Services Z036**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$6,999)	(\$6,999)

GENERAL FUND TOTAL	(\$6,999)	(\$6,999)
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**Division of Purchased Services Z035**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$900)

GENERAL FUND TOTAL	\$0	(\$900)
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**Division of Purchased Services Z035**

Initiative: Reduces funding by reorganizing and consolidating activities within the Division of Purchased Services program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$45,000)

GENERAL FUND TOTAL	\$0	(\$45,000)
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**Division of Purchased Services Z035**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$5,279)	(\$5,279)

GENERAL FUND TOTAL	(\$5,279)	(\$5,279)
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**Food Supplement Administration Z019**

Initiative: Reduces funding for rent by terminating the lease at 442 Civic Center Drive in Augusta.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$10,790)

GENERAL FUND TOTAL	\$0	(\$10,790)
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**Health - Bureau of 0143**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$3,130)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$3,130)</b>

**Health - Bureau of 0143**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

GENERAL FUND	2011-12	2012-13
All Other	(\$7,998)	(\$7,998)
<b>GENERAL FUND TOTAL</b>	<b>(\$7,998)</b>	<b>(\$7,998)</b>

**Long Term Care - Human Services 0420**

Initiative: Reduces funding by consolidating independent support services and home-based care services, tightening member eligibility provisions, further refining the assessment process and potentially reducing contract amounts.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$177,210)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$177,210)</b>

**Maternal and Child Health Block Grant Match Z008**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$5,541)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$5,541)</b>

**Maternal and Child Health Block Grant Match Z008**

Initiative: Reduces funding for an amount that has not been targeted toward any specific program area.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$46,300)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$46,300)</b>

**Maternal and Child Health Block Grant Match Z008**

Initiative: Reduces funding for the crash outcome data evaluation system project.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$23,679)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$23,679)</b>

**Maternal and Child Health Block Grant Match Z008**

Initiative: Reduces funding for the Maine Youth Action Network.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$42,500)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$42,500)</b>

**Maternal and Child Health Block Grant Match Z008**

Initiative: Reduces funding for medical record abstraction for the birth defects surveillance and tracking program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$57,986)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$57,986)</b>

**Maternal and Child Health Block Grant Match Z008**

Initiative: Reduces funding for school-based health centers by 20%.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$20,606)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$20,606)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by reducing the number of specialty pharmacy providers to a single exclusive provider.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$200,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$200,000)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$344,514)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$344,514)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding for outpatient services at acute care hospitals.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$3,180,269)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$3,180,269)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$5,478,236)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$5,478,236)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Adjusts funding by eliminating coverage of certain diabetic supplies when purchased in medical supply stores.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$100,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$100,000)</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$100,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$100,000</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by limiting access to buprenorphine and naloxone combination drugs for MaineCare recipients, effective January 1, 2013, to a 2-year period, to be applied retroactively. Access to buprenorphine and naloxone combination drugs beyond a 2-year period may be prior authorized by the department.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$600,000)

GENERAL FUND TOTAL	\$0	(\$600,000)
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FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$1,033,542)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,033,542)</b>

**Multicultural Services Z034**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$2,498)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$2,498)</b>

**Office for Family Independence Z020**

Initiative: Reduces funding for rent by terminating the lease at 442 Civic Center Drive in Augusta.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$86,455)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$86,455)</b>

**Office of Elder Services Adult Protective Services Z040**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$5,600)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$5,600)</b>

**Office of Elder Services Adult Protective Services Z040**

Initiative: Reduces funding no longer required by the program.

GENERAL FUND	2011-12	2012-13
All Other	(\$75,000)	(\$75,000)
<b>GENERAL FUND TOTAL</b>	<b>(\$75,000)</b>	<b>(\$75,000)</b>

**Office of Elder Services Adult Protective Services Z040**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

GENERAL FUND	2011-12	2012-13
All Other	(\$3,999)	(\$3,999)
<b>GENERAL FUND TOTAL</b>	<b>(\$3,999)</b>	<b>(\$3,999)</b>

**Office of Elder Services Central Office 0140**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,950)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,950)</b>

**Office of Management and Budget 0142**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$2,550)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$2,550)</b>

**Office of Management and Budget 0142**

Initiative: Reduces funding for forensic service evaluation contracts.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$500,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$500,000)</b>

**Office of Management and Budget 0142**

Initiative: Reduces funding for rent by terminating the lease at 442 Civic Center Drive in Augusta.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$61,523)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$61,523)</b>

**OMB Division of Regional Business Operations 0196**

Initiative: Reduces funding for travel expenses by department staff using personal computer and network conferencing tools for office meetings and training.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$4,600)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$4,600)</b>

**OMB Division of Regional Business Operations 0196**

Initiative: Reduces funding for rent by moving the Calais and Farmington district offices into shared space with the Department of the Secretary of State, Bureau of Motor Vehicles offices.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$36,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$36,000)</b>

**OMB Division of Regional Business Operations 0196**

Initiative: Reduces funding to recognize the savings associated with the elimination of 86.5 positions included in Public Law 2011, chapter 380, Part QQQ.

GENERAL FUND	2011-12	2012-13
All Other	(\$35,194)	(\$35,194)
<b>GENERAL FUND TOTAL</b>	<b>(\$35,194)</b>	<b>(\$35,194)</b>

**State-funded Foster Care/Adoption Assistance 0139**

Initiative: Eliminates one Public Service Coordinator I position funded 50% in the State-funded Foster Care/Adoption Assistance program and 50% in the Bureau of Medical Services program and reduces funding for supplemental services for children with complex emotional and behavioral needs.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	(\$44,286)
All Other	\$0	(\$2,142,400)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$2,186,686)</b>

**Temporary Assistance for Needy Families 0138**

Initiative: Reduces funding to reflect the net savings from collecting a \$25 annual fee in certain child support custodial cases. Savings of \$110,000 in the Temporary Assistance for Needy Families program are offset by a one-time cost in the Child Support program to implement the necessary information technology

changes. This initiative will also increase General Fund undedicated revenue by \$55,000 annually.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$110,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$110,000)</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	(\$187,921)	(\$10,044,844)
FEDERAL EXPENDITURES FUND	\$23,015	(\$6,879,694)
OTHER SPECIAL REVENUE FUNDS	\$0	\$100,000
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$164,906)</b>	<b>(\$16,824,538)</b>

**HISTORIC PRESERVATION COMMISSION, MAINE**

**Historic Preservation Commission 0036**

Initiative: Reduces funding for the service center, as federal funding sources will cover more of these costs.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$368)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$368)</b>

**HISTORIC PRESERVATION COMMISSION, MAINE**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$368)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$368)</b>

**HISTORICAL SOCIETY, MAINE**

**Historical Society 0037**

Initiative: Reduces funding for grants used for outreach to towns, cities, schools and libraries.

GENERAL FUND	2011-12	2012-13
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All Other	\$0	(\$1,234)
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<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,234)</b>
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**HISTORICAL SOCIETY, MAINE**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$1,234)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$1,234)</b>

**HOSPICE COUNCIL, MAINE**

**Maine Hospice Council 0663**

Initiative: Reduces funding for operating costs.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,747)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,747)</b>

**HOSPICE COUNCIL, MAINE**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$1,747)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$1,747)</b>

**HOUSING AUTHORITY, MAINE STATE**

**Shelter Operating Subsidy 0661**

Initiative: Reduces funding for homeless shelters.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$10,033)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$10,033)</b>

**HOUSING AUTHORITY, MAINE STATE**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$10,033)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$10,033)</b>

**HUMAN RIGHTS COMMISSION, MAINE**

**Human Rights Commission - Regulation 0150**

Initiative: Reduces funding for rental of conference room space.

GENERAL FUND	2011-12	2012-13
All Other	(\$723)	(\$723)
<b>GENERAL FUND TOTAL</b>	<b>(\$723)</b>	<b>(\$723)</b>

**HUMAN RIGHTS COMMISSION, MAINE**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	(\$723)	(\$723)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$723)</b>	<b>(\$723)</b>

**HUMANITIES COUNCIL, MAINE**

**Humanities Council 0942**

Initiative: Reduces funding for grants to Maine's cultural organizations.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,468)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,468)</b>

**HUMANITIES COUNCIL, MAINE**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$1,468)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$1,468)</b>

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

**Maine Commission on Indigent Legal Services Z112**

Initiative: Reduces funding for indigent legal services.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$260,203)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$260,203)</b>

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$260,203)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$260,203)</b>

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

**Administrative Services - Inland Fisheries and Wildlife 0530**

Initiative: Reduces funding for satellite connection at the Enfield Hatchery.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$936)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$936)</b>

**Administrative Services - Inland Fisheries and Wildlife 0530**

Initiative: Reduces funding for landline telephones.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$21,540)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$21,540)</b>

**Administrative Services - Inland Fisheries and Wildlife 0530**

Initiative: Reduces funding for departmentwide maintenance.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$97,844)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$97,844)</b>

**Enforcement Operations - Inland Fisheries and Wildlife 0537**

Initiative: Reduces funding for heating a game warden housing facility.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,500)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,500)</b>

**Enforcement Operations - Inland Fisheries and Wildlife 0537**

Initiative: Reduces funding for printing revisions to laws.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,262)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,262)</b>

**Office of the Commissioner - Inland Fisheries and Wildlife 0529**

Initiative: Reduces funding for printing revisions to laws.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$14,262)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$14,262)</b>

**Public Information and Education, Division of 0729**

Initiative: Reduces funding for advertising.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$10,831)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$10,831)</b>

**Resource Management Services - Inland Fisheries and Wildlife 0534**

Initiative: Reduces funding for membership in the International Association of Fish and Wildlife Agencies.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$25,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$25,000)</b>

**Search and Rescue 0538**

Initiative: Reduces funding related to the K-9 unit.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$15,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$15,000)</b>

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13

GENERAL FUND	\$0	(\$188,175)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$188,175)</b>

**JUDICIAL DEPARTMENT**

**Judicial - Debt Service Z097**

Initiative: Reduces funding for debt service on a one-time basis.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$767,694)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$767,694)</b>

**JUDICIAL DEPARTMENT DEPARTMENT TOTALS**

GENERAL FUND	2011-12	2012-13
	\$0	(\$767,694)

DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$767,694)

**LABOR, DEPARTMENT OF**

**Administration - Bureau of Labor Standards 0158**

Initiative: Reduces funding for newspaper subscriptions.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$950)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$950)</b>

**Administration - Labor 0030**

Initiative: Reduces funding in the office of the Commissioner of Labor for rents, professional services and general operations.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$12,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$12,000)</b>

**Blind and Visually Impaired - Division for the 0126**

Initiative: Reduces funding for a contract for radio programming.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$35,000)

GENERAL FUND TOTAL	\$0	(\$35,000)
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**Employment Services Activity 0852**

Initiative: Reduces supplemental funding for training and support for individuals eligible for assistance under the federal Workforce Investment Act of 1998.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$18,000)

GENERAL FUND TOTAL	\$0	(\$18,000)
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**Labor Relations Board 0160**

Initiative: Reduces funding by decreasing the hours for one Attorney Examiner position in the Maine Labor Relations Board from 80 hours to 74 hours biweekly.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	(\$6,990)

GENERAL FUND TOTAL	\$0	(\$6,990)
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**Maine Centers for Women, Work and Community 0132**

Initiative: Reduces funding for the pass-through contract with Maine Centers for Women, Work and Community resulting in a reduction of provided services.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$30,000)

GENERAL FUND TOTAL	\$0	(\$30,000)
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**Regulation and Enforcement 0159**

Initiative: Reduces funding for inspections by changing the scheduling of inspections and using a central fleet vehicle instead of reimbursing for mileage.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$7,750)

GENERAL FUND TOTAL	\$0	(\$7,750)
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**Regulation and Enforcement 0159**

Initiative: Reduces funding for subscriptions by obtaining other information online instead of buying subscriptions.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$5,400)

GENERAL FUND TOTAL	\$0	(\$5,400)
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**Regulation and Enforcement 0159**

Initiative: Transfers funding for Central Fleet Management costs related to work assigned to labor safety inspectors from the Regulation and Enforcement program, General Fund to the Safety Education and Training Programs, Other Special Revenue Funds.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$12,900)

GENERAL FUND TOTAL	\$0	(\$12,900)
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**Rehabilitation Services 0799**

Initiative: Reduces funding for services to rehabilitation clients.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$25,000)

GENERAL FUND TOTAL	\$0	(\$25,000)
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**Safety Education and Training Programs 0161**

Initiative: Transfers funding for Central Fleet Management costs related to work assigned to labor safety inspectors from the Regulation and Enforcement program, General Fund to the Safety Education and Training Programs, Other Special Revenue Funds.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$12,900

OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$12,900
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**LABOR, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$153,990)
OTHER SPECIAL REVENUE FUNDS	\$0	\$12,900

DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$141,090)
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**LIBRARY, MAINE STATE**

**Maine State Library 0217**

Initiative: Reallocates the cost of one Librarian I position from 100% General Fund to 68.55% Federal Expenditures Fund and 31.45% General Fund within the same program. Further reduces the Federal Expenditures Fund in All Other to cover the increase in Personal Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$29,991)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$29,991)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$29,991
All Other	\$0	(\$29,991)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

LIBRARY, MAINE STATE DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$29,991)
FEDERAL EXPENDITURES FUND	\$0	\$0
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$29,991)</b>

**MARINE RESOURCES, DEPARTMENT OF Bureau of Resource Management 0027**

Initiative: Eliminates one Marine Resource Scientist IV position.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$100,341)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$100,341)</b>

MARINE RESOURCES, DEPARTMENT OF DEPARTMENT TOTALS	2011-12	2012-13

GENERAL FUND	\$0	(\$100,341)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$100,341)</b>

**MARITIME ACADEMY, MAINE**

**Maritime Academy - Operations 0035**

Initiative: Reduces funding for administrative costs associated with campus support services.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$128,402)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$128,402)</b>

MARITIME ACADEMY, MAINE DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$128,402)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$128,402)</b>

**MUNICIPAL BOND BANK, MAINE**

**Maine Municipal Bond Bank - Maine Rural Water Association 0699**

Initiative: Reduces funding in the Maine Municipal Bond Bank - Maine Rural Water Association program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,908)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,908)</b>

MUNICIPAL BOND BANK, MAINE DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$1,908)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$1,908)</b>

**MUSEUM, MAINE STATE**

**Maine State Museum 0180**

Initiative: Reduces funding for office and other supplies used for exhibit maintenance and construction.

GENERAL FUND	2011-12	2012-13

All Other	\$0	(\$5,068)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$5,068)</b>

**MUSEUM, MAINE STATE DEPARTMENT TOTALS**

	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$5,068)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$5,068)</b>

**NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION**  
**Maine Joint Environmental Training Coordinating Committee 0980**  
 Initiative: Reduces funding for services to municipalities and state agencies.

	2011-12	2012-13
<b>GENERAL FUND</b>		
All Other	\$0	(\$219)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$219)</b>

**NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMMISSION**

	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$219)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$219)</b>

**PINE TREE LEGAL ASSISTANCE**  
**Legal Assistance 0553**  
 Initiative: Reduces funding for legal services to low-income families.

	2011-12	2012-13
<b>GENERAL FUND</b>		
All Other	\$0	(\$7,011)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$7,011)</b>

**PINE TREE LEGAL ASSISTANCE**

	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$7,011)</b>

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$7,011)</b>
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**PROPERTY TAX REVIEW, STATE BOARD OF**  
**Property Tax Review - State Board of 0357**  
 Initiative: Reduces funding for professional services.

	2011-12	2012-13
<b>GENERAL FUND</b>		
All Other	(\$2,219)	(\$2,219)
<b>GENERAL FUND TOTAL</b>	<b>(\$2,219)</b>	<b>(\$2,219)</b>

**PROPERTY TAX REVIEW, STATE BOARD OF**

	2011-12	2012-13
<b>GENERAL FUND</b>	<b>(\$2,219)</b>	<b>(\$2,219)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$2,219)</b>	<b>(\$2,219)</b>

**PUBLIC BROADCASTING CORPORATION, MAINE**  
**Maine Public Broadcasting Corporation 0033**  
 Initiative: Reduces funding for professional services and maintenance expenditures.

	2011-12	2012-13
<b>GENERAL FUND</b>		
All Other	\$0	(\$46,526)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$46,526)</b>

**PUBLIC BROADCASTING CORPORATION, MAINE**

	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$46,526)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$46,526)</b>

**PUBLIC SAFETY, DEPARTMENT OF**  
**Administration - Public Safety 0088**  
 Initiative: Eliminates one Office Associate II position and reduces funding for related technology costs.

	2011-12	2012-13
<b>GENERAL FUND</b>		

POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$30,437)
All Other	\$0	(\$712)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$31,149)</b>

<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$30,437)
All Other	\$0	(\$698)
<b>HIGHWAY FUND TOTAL</b>	<b>\$0</b>	<b>(\$31,135)</b>

**Capitol Police - Bureau of 0101**

Initiative: Reduces funding by recognizing savings achieved by delaying the hiring for positions.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$13,840)	\$0
<b>GENERAL FUND TOTAL</b>	<b>(\$13,840)</b>	<b>\$0</b>

**Drug Enforcement Agency 0388**

Initiative: Transfers funding for technology costs from the General Fund to the Other Special Revenue Funds within the same program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$32,745)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$32,745)</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$32,751
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$32,751</b>

**Emergency Medical Services 0485**

Initiative: Reduces funding for the printing of protocol books.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$15,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$15,000)</b>

**Gambling Control Board Z002**

Initiative: Reduces funding on a one-time basis by hiring a retired state police trooper as director of the Gambling Control Board.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$30,000)	(\$30,000)
<b>GENERAL FUND TOTAL</b>	<b>(\$30,000)</b>	<b>(\$30,000)</b>

**Liquor Enforcement 0293**

Initiative: Reduces funding for contractual services with nonstate entities.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$5,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$5,000)</b>

**Liquor Enforcement 0293**

Initiative: Reduces funding for rent.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$10,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$10,000)</b>

**State Police 0291**

Initiative: Eliminates one part-time Identification Specialist II position and reduces funding for related All Other costs.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$18,020)
All Other	\$0	(\$712)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$18,732)</b>

<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$17,309)
All Other	\$0	(\$755)
<b>HIGHWAY FUND TOTAL</b>	<b>\$0</b>	<b>(\$18,064)</b>

**State Police 0291**

Initiative: Reduces funding for data storage.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$10,200)

GENERAL FUND TOTAL	\$0	(\$10,200)
<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$9,800)
HIGHWAY FUND TOTAL	\$0	(\$9,800)

**State Police 0291**

Initiative: Reduces funding for mobile data terminals.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$10,200)
GENERAL FUND TOTAL	\$0	(\$10,200)
<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$9,800)
HIGHWAY FUND TOTAL	\$0	(\$9,800)

**State Police 0291**

Initiative: Reduces funding for subscriptions to periodicals.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$700)
GENERAL FUND TOTAL	\$0	(\$700)
<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$700)
HIGHWAY FUND TOTAL	\$0	(\$700)

**State Police 0291**

Initiative: Eliminates one Office Associate II position and reduces funding for related All Other costs.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	(\$19,550)	(\$20,421)
All Other	\$0	(\$712)
GENERAL FUND TOTAL	(\$19,550)	(\$21,133)
<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>

Personal Services	(\$18,784)	(\$19,627)
All Other	\$0	(\$755)

HIGHWAY FUND TOTAL	(\$18,784)	(\$20,382)
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**PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS**

GENERAL FUND	2011-12	2012-13
HIGHWAY FUND	(\$63,390)	(\$184,859)
OTHER SPECIAL REVENUE FUNDS	(\$18,784)	(\$89,881)
	\$0	\$32,751
DEPARTMENT TOTAL - ALL FUNDS	(\$82,174)	(\$241,989)

**SACO RIVER CORRIDOR COMMISSION**

**Saco River Corridor Commission 0322**

Initiative: Reduces funding for staff time.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,292)
GENERAL FUND TOTAL	\$0	(\$1,292)

**SACO RIVER CORRIDOR COMMISSION**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$1,292)
DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$1,292)

**SECRETARY OF STATE, DEPARTMENT OF**

**Bureau of Administrative Services and Corporations 0692**

Initiative: Reduces funding for technology by forgoing the phased replacement of computers and related equipment for staff.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$21,225)
GENERAL FUND TOTAL	\$0	(\$21,225)

**SECRETARY OF STATE, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$21,225)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$21,225)</b>

**ST. CROIX INTERNATIONAL WATERWAY COMMISSION**

**St. Croix International Waterway Commission 0576**

Initiative: Reduces funding for staff time.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$601)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$601)</b>

**ST. CROIX INTERNATIONAL WATERWAY COMMISSION**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$601)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$601)</b>

**TREASURER OF STATE, OFFICE OF Administration - Treasury 0022**

Initiative: Reduces funding for general operations.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$10,000)	(\$10,000)
<b>GENERAL FUND TOTAL</b>	<b>(\$10,000)</b>	<b>(\$10,000)</b>

**Administration - Treasury 0022**

Initiative: Reduces funding from changing the way in which unclaimed property is advertised.

<b>ABANDONED PROPERTY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$15,000)	(\$15,000)
<b>ABANDONED PROPERTY FUND TOTAL</b>	<b>(\$15,000)</b>	<b>(\$15,000)</b>

<b>TREASURER OF STATE, OFFICE OF DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>(\$10,000)</b>	<b>(\$10,000)</b>
<b>ABANDONED PROPERTY FUND</b>	<b>(\$15,000)</b>	<b>(\$15,000)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$25,000)</b>	<b>(\$25,000)</b>

**UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE**

**Educational and General Activities - UMS 0031**

Initiative: Reduces funding for instruction, support and maintenance.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$2,335,708)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$2,335,708)</b>

**UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$2,335,708)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$2,335,708)</b>

<b>SECTION TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>(\$3,136,461)</b>	<b>\$4,781,708</b>
<b>HIGHWAY FUND</b>	<b>(\$18,784)</b>	<b>(\$89,881)</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$23,015</b>	<b>(\$6,879,694)</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$469,631</b>	<b>\$1,656,437</b>
<b>ABANDONED PROPERTY FUND</b>	<b>(\$15,000)</b>	<b>(\$15,000)</b>
<b>SECTION TOTAL - ALL FUNDS</b>	<b>(\$2,677,599)</b>	<b>(\$546,430)</b>

**PART B**

**Sec. B-1. Calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in section 4 of this Part from a decrease in charges made

by the Department of Administrative and Financial Services, Office of Information Technology for its services that applies against each account for departments and agencies statewide due to the savings that result from various initiatives authorized in Public Law 2011, chapter 380 that reduced personnel costs. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations and allocations in fiscal years 2011-12 and 2012-13.

**Sec. B-2. Calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in section 5 of this Part from a decrease in charges made by the Department of Administrative and Financial Services, Office of Information Technology for its services that applies against each account for departments and agencies statewide due to the savings that result from not renewing the Microsoft Enterprise agreement, changing the method in which departments and agencies are charged for the use of the financial and personnel data warehouses and the elimination of positions as authorized in Public Law 2011, chapter 380, Part QQQ. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations and allocations in fiscal year 2012-13.

**Sec. B-3. Report.** The State Budget Officer shall provide the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs a report of the transferred amounts pursuant to this Part not later than January 15, 2013.

**Sec. B-4. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Reduces funding to reflect additional technology savings as a result of health, pension and other initiatives authorized in Public Law 2011, chapter 380.

GENERAL FUND	2011-12	2012-13
All Other	(\$346,261)	(\$248,529)
<b>GENERAL FUND TOTAL</b>	<b>(\$346,261)</b>	<b>(\$248,529)</b>
<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$247,108)	(\$274,962)
<b>HIGHWAY FUND TOTAL</b>	<b>(\$247,108)</b>	<b>(\$274,962)</b>

**Sec. B-5. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Reduces funding to reflect savings from not renewing the Microsoft Enterprise agreement, which expires in May 2012.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$468,049)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$468,049)</b>
<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$149,576)
<b>HIGHWAY FUND TOTAL</b>	<b>\$0</b>	<b>(\$149,576)</b>

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Reduces funding for the finance and human resources data warehouses charges as a result of incorporating charges into the STA-CAP rates.

GENERAL FUND	2011-12	2012-13
All Other	(\$134,680)	(\$134,680)
<b>GENERAL FUND TOTAL</b>	<b>(\$134,680)</b>	<b>(\$134,680)</b>

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Reduces funding to reflect savings in information technology as a result of the elimination of positions in Public Law 2011, chapter 380, Part QQQ.

GENERAL FUND	2011-12	2012-13
All Other	(\$19,055)	(\$19,055)
<b>GENERAL FUND TOTAL</b>	<b>(\$19,055)</b>	<b>(\$19,055)</b>

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>(\$153,735)</b>	<b>(\$621,784)</b>
<b>HIGHWAY FUND</b>	<b>\$0</b>	<b>(\$149,576)</b>

DEPARTMENT TOTAL -	(\$153,735)	(\$771,360)
ALL FUNDS		

**PART C**

**Sec. C-1. 20-A MRSA §15671, sub-§7, ¶B,** as amended by PL 2011, c. 380, Pt. C, §2, is further amended to read:

B. The annual targets for the state share percentage of the statewide adjusted total cost of the components of essential programs and services are as follows.

- (1) For fiscal year 2005-06, the target is 52.6%.
- (2) For fiscal year 2006-07, the target is 53.86%.
- (3) For fiscal year 2007-08, the target is 53.51%.
- (4) For fiscal year 2008-09, the target is 52.52%.
- (5) For fiscal year 2009-10, the target is 48.93%.
- (6) For fiscal year 2010-11, the target is 45.84%.
- (7) For fiscal year 2011-12, the target is ~~46.18%~~ 46.13%.

**Sec. C-2. 20-A MRSA §15671, sub-§7, ¶C,** as enacted by PL 2011, c. 380, Pt. C, §3, is amended to read:

C. Beginning in fiscal year 2011-12, the annual targets for the state share percentage of the total cost of funding public education from kindergarten to grade 12 including the cost of the components of essential programs and services plus the state contributions to teacher retirement, retired teachers' health insurance and retired teachers' life insurance are as follows.

- (1) For fiscal year 2011-12, the target is ~~49.60%~~ 49.56%.
- (2) For fiscal year 2012-13, the target is 52.50%.
- (3) For fiscal year 2013-14 and succeeding years, the target is 55%.

**Sec. C-3. 20-A MRSA §15671-A, sub-§2, ¶B,** as amended by PL 2011, c. 380, Pt. C, §4, is further amended to read:

B. For property tax years beginning on or after April 1, 2005, the commissioner shall calculate the full-value education mill rate that is required to raise the statewide total local share. The full-

value education mill rate is calculated for each fiscal year by dividing the applicable statewide total local share by the applicable statewide valuation. The full-value education mill rate must decline over the period from fiscal year 2005-06 to fiscal year 2008-09 and may not exceed 9.0 mills in fiscal year 2005-06 and may not exceed 8.0 mills in fiscal year 2008-09. The full-value education mill rate must be applied according to section 15688, subsection 3-A, paragraph A to determine a municipality's local cost share expectation. Full-value education mill rates must be derived according to the following schedule.

- (1) For the 2005 property tax year, the full-value education mill rate is the amount necessary to result in a 47.4% statewide total local share in fiscal year 2005-06.
- (2) For the 2006 property tax year, the full-value education mill rate is the amount necessary to result in a 46.14% statewide total local share in fiscal year 2006-07.
- (3) For the 2007 property tax year, the full-value education mill rate is the amount necessary to result in a 46.49% statewide total local share in fiscal year 2007-08.
- (4) For the 2008 property tax year, the full-value education mill rate is the amount necessary to result in a 47.48% statewide total local share in fiscal year 2008-09.
- (4-A) For the 2009 property tax year, the full-value education mill rate is the amount necessary to result in a 51.07% statewide total local share in fiscal year 2009-10.
- (4-B) For the 2010 property tax year, the full-value education mill rate is the amount necessary to result in a 54.16% statewide total local share in fiscal year 2010-11.
- (4-C) For the 2011 property tax year, the full-value education mill rate is the amount necessary to result in a ~~53.82%~~ 53.87% statewide total local share in fiscal year 2011-12.
- (5) For the 2012 property tax year, the full-value education mill rate is the amount necessary to result in a 47.74% statewide total local share in fiscal year 2012-13.
- (6) For the 2013 property tax year, the full-value education mill rate is the amount necessary to result in a 47.50% statewide total local share in fiscal year 2013-14.
- (7) For the 2014 property tax year and subsequent tax years, the full-value education mill rate is the amount necessary to result in a

45% statewide total local share in fiscal year 2014-15 and after.

**Sec. C-4. PL 2011, c. 380, Pt. C, §§8 and 9** are amended to read:

**Sec. C-8. Total cost of funding public education from kindergarten to grade 12.** The total cost of funding public education from kindergarten to grade 12 for fiscal year 2011-12 is as follows:

	<b>2011-12 TOTAL</b>
<b>Total Operating Allocation</b>	
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 without transitions percentage	\$1,390,771,314
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 with 97% transitions percentage	\$1,349,048,174
Total other subsidizable costs pursuant to the Maine Revised Statutes, Title 20-A, section 15681-A	\$413,851,257
<b>Total Operating Allocation</b>	<hr/>
Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 and total other subsidizable costs pursuant to Title 20-A, section 15681-A	\$1,762,899,431
<b>Total Debt Service Allocation</b>	
Total debt service allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683-A	\$104,575,834
<b>Total Adjustments and Miscellaneous Costs</b>	
Total adjustments and miscellaneous costs pursuant to the Maine Revised Statutes, Title 20-A, sections 15689 and 15689-A	<del>-\$69,591,704</del> <u>\$67,593,846</u>
<b>Total Cost of Funding Public Education from Kindergarten to Grade 12</b>	<hr/>

Total cost of funding public education from kindergarten to grade 12 for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B

~~-\$1,937,066,969~~  
\$1,935,069,111

Total cost of the state contribution to teacher retirement, teacher retirement health insurance and teacher retirement life insurance for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 5, chapters 421 and 423

\$172,592,848

Adjustment pursuant to the Maine Revised Statutes, Title 20-A, section 15683, subsection 2

\$41,723,140

Total cost of funding public education from kindergarten to grade 12

~~-\$2,151,382,957~~  
\$2,149,385,099

**Sec. C-9. Local and state contributions to total cost of funding public education from kindergarten to grade 12.** The local contribution and the state contribution appropriation provided for general purpose aid for local schools for the fiscal year beginning July 1, 2011 and ending June 30, 2012 is calculated as follows:

	<b>2011-12 LOCAL</b>	<b>2011-12 STATE</b>
<b>Local and State Contributions to the Total Cost of Funding Public Education from Kindergarten to Grade 12</b>		
Local and state contributions to the total cost of funding public education from kindergarten to grade 12 pursuant to the Maine Revised Statutes, Title 20-A, section 15683 - subject to statewide distributions required by law	\$1,042,466,969	<del>-\$894,600,000</del> <u>\$892,602,142</u>
State contribution to the total cost of teacher retirement, teacher retirement health insurance and teacher retirement life insurance for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 5, chapters 421 and 423		\$172,592,848

State contribution to the total cost of funding public education from kindergarten to grade 12	\$1,067,192,848
	<u>\$1,065,194,990</u>

**PART D**

**Sec. D-1. 20-A MRSA §15689, sub-§7,** as amended by PL 2007, c. 58, §3 and c. 240, Pt. D, §§4 and 5, is repealed.

**Sec. D-2. 20-A MRSA §15689, sub-§8,** as enacted by PL 2005, c. 635, §9, is repealed.

**Sec. D-3. Effective date.** This Part takes effect July 1, 2012.

**PART E**

**Sec. E-1. PL 2011, c. 380, Pt. OOOO, §1** is amended to read:

**Sec. OOOO-1. Judicial branch report on electronic filing.** The judicial branch shall develop a plan to implement electronic filing for civil docket cases. The judicial branch shall submit the plan along with an estimate of the cost to implement electronic filing in civil docket cases to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Judiciary no later than ~~February 1, 2012~~ July 1, 2012.

**Sec. E-2. Retroactivity.** This Part applies retroactively to June 20, 2011.

**PART F**

**Sec. F-1. 20-A MRSA §7001, sub-§2-A,** as amended by PL 2007, c. 430, §1, is further amended to read:

**2-A. Free, appropriate public education.** "Free, appropriate public education" means special education and related services that are provided at public expense, under public supervision and direction and without charge; meet the standards of the department; include an appropriate preschool, elementary school or secondary school education in the State; and are provided in conformity with the individualized family service plan or individualized education program. ~~Preschool children with disabilities who reach 5 years of age between July 1st and October 15th who are already receiving free, appropriate public education through the Child Development Services System and whose parents choose, in accordance with rules adopted by the commissioner, not to enroll those children in kindergarten until the start of the following school year must have free, appropriate public education available to them through the Child Development Services System for one additional school year. The Child Development Services System shall provide free, appropriate public education to a preschool child with disabilities who reaches 5 years of age between July 1st and October 15th if that child is already re-~~

ceiving free, appropriate public education through the Child Development Services System and the child's individualized education program team determines, in accordance with rules adopted by the commissioner, that it is in the best interest of the child not to enroll that child in kindergarten until the start of the following school year.

**PART G**

**Sec. G-1. 5 MRSA §1543-A, sub-§5** is enacted to read:

**5. Vendor payments.** The State Controller and the Treasurer of State may adopt rules to require vendors with a significant volume of payments to receive payment by direct deposit. The rules must include the requirement that the State Controller provide to vendors that receive electronic payments information similar to the check advice information given to vendors that receive checks. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

**PART H**

**Sec. H-1. 33 MRSA §1960, sub-§1,** as amended by PL 2003, c. 20, Pt. T, §26, is further amended to read:

**1. Publication.** The administrator shall publish a notice no later than November 30th of the year next following the year in which unclaimed property has been paid or delivered to the administrator. ~~The notice must be published in a newspaper of general circulation in this State.~~ The advertisement must be in a form that, in the judgment of the administrator, is likely to attract the attention of the apparent owner of the unclaimed property. The form must contain:

- A. The name of each person appearing to be the owner of the property, as set forth in the report filed by the holder;
- B. The last known address or location of each person appearing to be the owner of the property, if an address or location is set forth in the report filed by the holder;
- C. A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the administrator; and
- D. A statement that information about the property and its return to the owner is available to a person having a legal or beneficial interest in the property, upon request to the administrator.

**PART I**

**Sec. I-1. 22 MRSA §3174-SS** is enacted to read:

**§3174-SS. Calculation of 24 months**

**1. Twenty-four month limit.** Beginning January 1, 2013, the MaineCare program may not provide coverage for buprenorphine and naloxone combination drugs for an individual for the treatment of addiction to opioids for more than a total of 24 months unless the department, prior to the expiration of the 24th month of coverage, gives prior authorization for coverage for a longer period. The 24-month limit includes months prior to January 1, 2013 for which the individual received coverage.

**2. Documentation of impact of 24-month limit; reports.** The department shall monitor and document the impact of the 24-month limit established under subsection 1 on persons for whom coverage is terminated under this section. This documentation must include an evaluation of the impact of the termination of coverage on the use of MaineCare services by persons whose coverage is terminated and the health of those persons. By February 1st annually, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters that provides information regarding the impact of the limitation of coverage under this section on the use of MaineCare services and the health of persons subject to the limitation.

**Sec. I-2. Buprenorphine and naloxone combination drugs prior authorization.** The Department of Health and Human Services shall require its MaineCare drug utilization review committee to develop a process and criteria for evaluating requests for prior authorization of buprenorphine and naloxone combination drugs for longer than 24 months under the Maine Revised Statutes, Title 22, section 3174-SS. The MaineCare drug utilization review committee shall consult with the Substance Abuse Services Commission established in Title 5, section 12004-G, subsection 13-C and the committee composed of physicians that provides advice to the Office of MaineCare Services within the department. The MaineCare drug utilization review committee shall submit its findings to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services by September 15, 2012.

**PART J**

**Sec. J-1. 32 MRSA §3300-C** is enacted to read:

**§3300-C. Review of prescriptions written by physician assistant**

The supervising physician of a physician assistant, at least annually, shall review prescriptions written for a schedule II drug by that physician assistant. As used

in this section, "schedule II drug" has the same meaning as in the federal Controlled Substances Act of 1970, 21 United States Code, Section 812.

**PART K**

**Sec. K-1. 22 MRSA §7249, sub-§5** is enacted to read:

**5. Participation requirements.** If less than 90% of the prescribers in a class of prescribers described in paragraphs A to F are registered in the program on January 1, 2014, then all the members of that class of prescribers shall register in the program by March 1, 2014. The following are the classes of prescribers that are subject to the provisions of this subsection:

A. Allopathic physicians licensed pursuant to Title 32, chapter 48, subchapter 2;

B. Osteopathic physicians licensed pursuant to Title 32, chapter 36;

C. Dentists licensed pursuant to Title 32, chapter 16, subchapter 3;

D. Physician assistants licensed pursuant to Title 32, chapter 48, subchapter 2;

E. Podiatrists licensed pursuant to Title 32, chapter 51; and

F. Advanced practice registered nurses licensed pursuant to Title 32, chapter 31, subchapter 3.

**PART L**

**Sec. L-1. 19-A MRSA §2103, sub-§3**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2 and amended by PL 1997, c. 530, Pt. A, §34, is further amended to read:

**3. Fees and costs.** The department shall charge a fee of \$2 per ~~week~~ pay period to all obligors whose child support payments are made to the department to reduce the department's costs in providing support enforcement services. The department may collect fees owed by the obligor by using any remedies available for collection of child support. ~~The department shall retain all fees and apply them toward Temporary Assistance for Needy Families or the child support enforcement programs. The nonfederal share of the fee collected pursuant to this subsection must be deposited as General Fund undedicated revenue.~~ The department shall ~~apply deposit~~ deposit amounts collected ~~toward fees as General Fund undedicated revenue~~ only after the amount owed to the family for the current period is paid. The department shall collect the fee from obligors whose child support is paid to the department under an income withholding order by notifying the payer of income to the obligor to increase withholding by \$2 per ~~week~~ pay period. The department or any other person is not required to issue a new or amended withholding order to collect the fee, but shall notify the obligor in advance of the increase in withholding.

**Sec. L-2. 19-A MRSA §2103, sub-§3-A,** as enacted by PL 2007, c. 365, §1, is amended to read:

**3-A. Service fee.** In the case of an individual who has never received assistance under a state program and for whom the State has collected at least \$500 in child support, the State shall impose an annual §25 fee for each child support enforcement case that is:

- A. Retained by the State from child support collected on behalf of the individual after the collected support exceeds \$500;
- B. Paid by the individual applying for services;
- C. Recovered from the noncustodial parent; or
- D. Paid by the State out of its own funds. The annual fee may not be considered as an administrative cost of the State for operation of child support enforcement services and must be considered income to the program under which the individual has received child support enforcement services.

The nonfederal share of the annual fee collected pursuant to this subsection must be deposited as General Fund undedicated revenue.

**Sec. L-3. 19-A MRSA §2402,** as amended by PL 1999, c. 401, Pt. S, §1, is further amended to read:

**§2402. Dedicated funds**

All Except as provided in section 2103, subsections 3 and 3-A, all collections, fees and incentive payments received by the department from child support collections must be dedicated to reduce the State's General Fund share of Temporary Assistance for Needy Families and to cover the costs of making such collections. The department may not expend more than \$2,786,700 in any fiscal year of incentive payment revenue for the purpose of covering the costs of making child support collections.

**Sec. L-4. 19-A MRSA §2653,** as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**§2653. Administering agency**

The department shall adopt and administer procedures to receive, document and distribute all support payments collected pursuant to this subchapter. The commissioner may establish by rule a fee for use of these services. The Except as provided in section 2103, subsections 3 and 3-A, the department shall retain all fees and apply them toward the administration of the division of support enforcement and recovery.

**PART M**

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Statewide Radio Network System 0112**

Initiative: Deappropriates debt service savings due to an unanticipated delay in the public safety radio system project.

GENERAL FUND	2011-12	2012-13
All Other	(\$1,728,198)	\$0
<b>GENERAL FUND TOTAL</b>	<b>(\$1,728,198)</b>	<b>\$0</b>

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>(\$1,728,198)</b>	<b>\$0</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$1,728,198)</b>	<b>\$0</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)**

**Developmental Services - Community 0122**

Initiative: Reduces funding for reimbursement in rental assistance to United States Department of Housing and Urban Development levels.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,200,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,200,000)</b>

**Developmental Services Waiver - MaineCare 0987**

Initiative: Reduces funding from a 5% reduction in rates paid to agency per diem homes.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$3,654,635)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$3,654,635)</b>

**Developmental Services Waiver - MaineCare 0987**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of fiscal year 2011-12.

GENERAL FUND	2011-12	2012-13
All Other	\$5,808,535	\$0

GENERAL FUND TOTAL	\$5,808,535	\$0
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**Developmental Services Waiver - Supports Z006**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of fiscal year 2011-12.

GENERAL FUND	2011-12	2012-13
All Other	\$1,967,371	\$0
GENERAL FUND TOTAL	\$1,967,371	\$0

**Mental Health Services - Child Medicaid 0731**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of fiscal year 2011-12.

GENERAL FUND	2011-12	2012-13
All Other	\$5,290,051	\$0
GENERAL FUND TOTAL	\$5,290,051	\$0

**Mental Health Services - Children 0136**

Initiative: Adjusts funding for the 2012-2013 biennium only for the Cub Care program for families with income greater or equal to 150% but less than 200% of the nonfarm income official poverty line as the result of contributions from the Dirigo Health Fund to provide MaineCare seed for the program.

GENERAL FUND	2011-12	2012-13
All Other	(\$17,392)	(\$94,426)
GENERAL FUND TOTAL	(\$17,392)	(\$94,426)

**Office of Substance Abuse - Medicaid Seed 0844**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of fiscal year 2011-12.

GENERAL FUND	2011-12	2012-13
All Other	\$983,953	\$0
GENERAL FUND TOTAL	\$983,953	\$0

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$14,032,518	(\$4,949,061)
DEPARTMENT TOTAL - ALL FUNDS	\$14,032,518	(\$4,949,061)

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

**Bureau of Medical Services 0129**

Initiative: Adjusts funding for the 2012-2013 biennium only for the Cub Care program for families with income greater or equal to 150% but less than 200% of the nonfarm income official poverty line as the result of contributions from the Dirigo Health Fund to provide MaineCare seed for the program.

GENERAL FUND	2011-12	2012-13
All Other	(\$44,413)	(\$241,124)
GENERAL FUND TOTAL	(\$44,413)	(\$241,124)

**Departmentwide 0640**

Initiative: Reduces funding from salary savings. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in this Part that applies to each General Fund account in the Department of Health and Human Services and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2011-12 and fiscal year 2012-13.

GENERAL FUND	2011-12	2012-13
Personal Services	(\$5,000,000)	(\$3,000,000)
GENERAL FUND TOTAL	(\$5,000,000)	(\$3,000,000)

**FHM - Drugs for the Elderly and Disabled Z015**

Initiative: Reduces funding as a result of increasing compliance with the Maine Revised Statutes, Title 32, section 13781, mandating the use of generic drugs to the extent allowed by federal law, with limited exceptions.

FUND FOR A HEALTHY MAINE	2011-12	2012-13
All Other	(\$55,880)	(\$279,402)

FUND FOR A HEALTHY MAINE TOTAL	(\$55,880)	(\$279,402)
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**FHM - Medical Care 0960**

Initiative: Notwithstanding any provision of law, adjusts funding by decreasing funding in the Medical Care - Payments to Providers program and increasing funding in the FHM - Medical Care program to reflect a redistribution of funding within the Fund for a Healthy Maine.

FUND FOR A HEALTHY MAINE	2011-12	2012-13
All Other	\$55,880	\$279,402
<b>FUND FOR A HEALTHY MAINE TOTAL</b>	<b>\$55,880</b>	<b>\$279,402</b>

**Low-cost Drugs To Maine's Elderly 0202**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of fiscal year 2011-12.

GENERAL FUND	2011-12	2012-13
All Other	\$1,401,437	\$0
<b>GENERAL FUND TOTAL</b>	<b>\$1,401,437</b>	<b>\$0</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding as a result of increasing compliance with the Maine Revised Statutes, Title 32, section 13781, mandating the use of generic drugs to the extent allowed by federal law, with limited exceptions.

GENERAL FUND	2011-12	2012-13
All Other	(\$1,168,120)	(\$5,840,598)
<b>GENERAL FUND TOTAL</b>	<b>(\$1,168,120)</b>	<b>(\$5,840,598)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$2,023,465)	(\$9,838,860)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$2,023,465)</b>	<b>(\$9,838,860)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Adjusts funding for the 2012-2013 biennium only for the Cub Care program for families with in-

come greater or equal to 150% but less than 200% of the nonfarm income official poverty line as the result of contributions from the Dirigo Health Fund to provide MaineCare seed for the program.

GENERAL FUND	2011-12	2012-13
All Other	(\$410,995)	(\$2,231,331)
<b>GENERAL FUND TOTAL</b>	<b>(\$410,995)</b>	<b>(\$2,231,331)</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$472,800	\$2,556,881
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$472,800</b>	<b>\$2,556,881</b>

**Medical Care - Payments to Providers 0147**

Initiative: Adjusts funding in fiscal year 2011-12 as a result of contributions from the Dirigo Health Fund to provide MaineCare seed for the childless adult waiver.

GENERAL FUND	2011-12	2012-13
All Other	(\$10,000,000)	\$0
<b>GENERAL FUND TOTAL</b>	<b>(\$10,000,000)</b>	<b>\$0</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$10,000,000	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$10,000,000</b>	<b>\$0</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by reducing reimbursement for critical access hospitals from 109% to 105%.

GENERAL FUND	2011-12	2012-13
All Other	(\$290,834)	(\$1,179,804)
<b>GENERAL FUND TOTAL</b>	<b>(\$290,834)</b>	<b>(\$1,179,804)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$503,794)	(\$1,987,455)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$503,794)</b>	<b>(\$1,987,455)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by limiting reimbursement for hospital admissions to 5 per member per year.

GENERAL FUND	2011-12	2012-13
All Other	(\$91,890)	(\$490,081)
<b>GENERAL FUND TOTAL</b>	<b>(\$91,890)</b>	<b>(\$490,081)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$159,176)	(\$825,573)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$159,176)</b>	<b>(\$825,573)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding for outpatient services at acute care hospitals by 5%, effective July 1, 2012.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$3,180,269)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$3,180,269)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$5,357,366)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$5,357,366)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by reducing reimbursement for hospital inpatient services by 10%.

GENERAL FUND	2011-12	2012-13
All Other	(\$768,208)	(\$3,127,406)
<b>GENERAL FUND TOTAL</b>	<b>(\$768,208)</b>	<b>(\$3,127,406)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$2,098,929)	(\$5,268,314)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$2,098,929)</b>	<b>(\$5,268,314)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Notwithstanding any provision of law, adjusts funding by decreasing funding in the Medical

Care - Payments to Providers program and increasing funding in the FHM - Medical Care program to reflect a redistribution of funding within the Fund for a Healthy Maine.

GENERAL FUND	2011-12	2012-13
All Other	(\$55,880)	(\$279,402)
<b>GENERAL FUND TOTAL</b>	<b>(\$55,880)</b>	<b>(\$279,402)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by lowering methadone reimbursement from \$70 per week to \$60 per week.

GENERAL FUND	2011-12	2012-13
All Other	(\$87,490)	(\$474,902)
<b>GENERAL FUND TOTAL</b>	<b>(\$87,490)</b>	<b>(\$474,902)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$150,708)	(\$818,052)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$150,708)</b>	<b>(\$818,052)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding for smoking cessation products by 50%.

GENERAL FUND	2011-12	2012-13
All Other	(\$40,000)	(\$215,000)
<b>GENERAL FUND TOTAL</b>	<b>(\$40,000)</b>	<b>(\$215,000)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$68,903)	(\$370,353)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$68,903)</b>	<b>(\$370,353)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding due to limitations placed on MaineCare reimbursement for opioids.

GENERAL FUND	2011-12	2012-13
All Other	\$90,000	(\$660,000)
<b>GENERAL FUND TOTAL</b>	<b>\$90,000</b>	<b>(\$660,000)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$115,031	(\$1,136,896)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$115,031</b>	<b>(\$1,136,896)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding for chiropractic services by implementing a strict limit of 12 visits per member per year.

GENERAL FUND	2011-12	2012-13
All Other	(\$29,072)	(\$157,805)
<b>GENERAL FUND TOTAL</b>	<b>(\$29,072)</b>	<b>(\$157,805)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$50,079)	(\$271,830)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$50,079)</b>	<b>(\$271,830)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces vision services funding by limiting reimbursement to routine visits once every 3 years.

GENERAL FUND	2011-12	2012-13
All Other	(\$23,708)	(\$126,442)
<b>GENERAL FUND TOTAL</b>	<b>(\$23,708)</b>	<b>(\$126,442)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$40,839)	(\$217,805)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$40,839)</b>	<b>(\$217,805)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding through a 10% rate reduction for podiatry services.

GENERAL FUND	2011-12	2012-13
All Other	(\$6,841)	(\$37,090)
<b>GENERAL FUND TOTAL</b>	<b>(\$6,841)</b>	<b>(\$37,090)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$11,784)	(\$63,891)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$11,784)</b>	<b>(\$63,891)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding through a 10% rate reduction for adult family care services.

GENERAL FUND	2011-12	2012-13
All Other	(\$4,081)	(\$22,007)
<b>GENERAL FUND TOTAL</b>	<b>(\$4,081)</b>	<b>(\$22,007)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$7,030)	(\$37,908)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$7,030)</b>	<b>(\$37,908)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding through a 10% rate reduction for occupational therapy.

GENERAL FUND	2011-12	2012-13
All Other	(\$7,885)	(\$42,700)
<b>GENERAL FUND TOTAL</b>	<b>(\$7,885)</b>	<b>(\$42,700)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$14,286)	(\$77,367)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$14,286)</b>	<b>(\$77,367)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding through a 10% rate reduction for physical therapy.

GENERAL FUND	2011-12	2012-13
All Other	(\$9,766)	(\$52,907)
<b>GENERAL FUND TOTAL</b>	<b>(\$9,766)</b>	<b>(\$52,907)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
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All Other	(\$17,664)	(\$95,699)
FEDERAL EXPENDITURES	(\$17,664)	(\$95,699)
FUND TOTAL		

**Medical Care - Payments to Providers 0147**

Initiative: Adjusts funding to reflect the one-time transfer of funds from the Housing Opportunities for Maine Fund to fund the MaineCare seed for targeted case management services for individuals experiencing homelessness.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$300,000)
GENERAL FUND TOTAL	\$0	(\$300,000)

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$300,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$300,000

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding as a result of the collection of overpayments to MaineCare providers due to errors in calculating cost of care.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$11,000,000)
GENERAL FUND TOTAL	\$0	(\$11,000,000)

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding on a one-time basis as a result of the collection of legal settlement payments from MaineCare providers.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$363,696)	\$0
GENERAL FUND TOTAL	(\$363,696)	\$0

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding from a 5% reduction in rates paid to agency per diem homes.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$6,295,365)

FEDERAL EXPENDITURES	\$0	(\$6,295,365)
FUND TOTAL		

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding from extending the freeze on new enrollment in the MaineCare childless adult waiver program through June 30, 2013 as the first course of action to limit annual waiver spending to \$40,000,000 beginning July 1, 2012 and pursuing waiver benefit design as the next course of action if the freeze on new enrollment is insufficient to achieve the necessary savings.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$11,000,000)
GENERAL FUND TOTAL	\$0	(\$11,000,000)

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$18,948,271)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$18,948,271)

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding as a result of a one-time transfer from the Dirigo Health Fund to the Medical Care - Payments to Providers program as a result of reducing eligibility for Medicaid services for parents with a maximum income of 200% to a maximum income of 133% of the nonfarm income official poverty line effective October 1, 2012.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$7,210,000)
GENERAL FUND TOTAL	\$0	(\$7,210,000)

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$12,421,096)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$12,421,096)

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding through increased cost avoidance efforts due to claims being submitted to a 3rd-party carrier as the primary payer and MaineCare as the payer of last resort.

GENERAL FUND	2011-12	2012-13
All Other	(\$500,000)	(\$500,000)
<b>GENERAL FUND TOTAL</b>	<b>(\$500,000)</b>	<b>(\$500,000)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$861,285)	(\$861,285)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$861,285)</b>	<b>(\$861,285)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of fiscal year 2011-12.

GENERAL FUND	2011-12	2012-13
All Other	\$91,805,960	\$0
<b>GENERAL FUND TOTAL</b>	<b>\$91,805,960</b>	<b>\$0</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$207,077,368	\$0
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$207,077,368</b>	<b>\$0</b>

**MR/Elderly PNMI Room and Board Z009**

Initiative: Reduces funding through a 10% rate reduction for physical therapy.

GENERAL FUND	2011-12	2012-13
All Other	(\$489)	(\$2,649)
<b>GENERAL FUND TOTAL</b>	<b>(\$489)</b>	<b>(\$2,649)</b>

**MR/Elderly PNMI Room and Board Z009**

Initiative: Reduces funding through a 10% rate reduction for occupational therapy.

GENERAL FUND	2011-12	2012-13
All Other	(\$409)	(\$2,214)
<b>GENERAL FUND TOTAL</b>	<b>(\$409)</b>	<b>(\$2,214)</b>

**Nursing Facilities 0148**

Initiative: Reduces funding through a 10% rate reduction for occupational therapy.

GENERAL FUND	2011-12	2012-13
All Other	(\$752)	(\$4,071)
<b>GENERAL FUND TOTAL</b>	<b>(\$752)</b>	<b>(\$4,071)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$1,295)	(\$7,012)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$1,295)</b>	<b>(\$7,012)</b>

**Nursing Facilities 0148**

Initiative: Reduces funding through a 10% rate reduction for physical therapy.

GENERAL FUND	2011-12	2012-13
All Other	(\$909)	(\$4,923)
<b>GENERAL FUND TOTAL</b>	<b>(\$909)</b>	<b>(\$4,923)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$1,565)	(\$8,480)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$1,565)</b>	<b>(\$8,480)</b>

**State-funded Foster Care/Adoption Assistance 0139**

Initiative: Eliminates funding for the supplemental services for children with complex emotional and behavioral needs.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,999,984)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,999,984)</b>

**State-funded Foster Care/Adoption Assistance 0139**

Initiative: Reduces funding by reducing contracts in the alternative response program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,290,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,290,000)</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$74,391,959	(\$54,672,709)
FEDERAL EXPENDITURES FUND	\$201,181,597	(\$64,908,878)
FUND FOR A HEALTHY MAINE	\$0	\$0
OTHER SPECIAL REVENUE FUNDS	\$10,472,800	\$2,856,881
<hr/>		
DEPARTMENT TOTAL - ALL FUNDS	\$286,046,356	(\$116,724,706)
SECTION TOTALS	2011-12	2012-13
GENERAL FUND	\$86,696,279	(\$59,621,770)
FEDERAL EXPENDITURES FUND	\$201,181,597	(\$64,908,878)
FUND FOR A HEALTHY MAINE	\$0	\$0
OTHER SPECIAL REVENUE FUNDS	\$10,472,800	\$2,856,881
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SECTION TOTAL - ALL FUNDS	\$298,350,676	(\$121,673,767)

**PART N**

**Sec. N-1. Statewide All Other reduction; calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate a proportional reduction in the All Other appropriations equal to the amounts identified in section 3 that apply against each General Fund program or account of executive branch departments and agencies, except those identified in section 2, and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2012-13. The State Budget Officer shall provide a report of the transferred amounts to the Joint Standing Committee on Appropriations and Financial Affairs no later than July 1, 2012.

**Sec. N-2. Programs exempted from statewide All Other reduction.** The following programs or accounts are exempted from the calculation of the All Other reduction required by this Part:

1. The Statewide Radio Network System within the Department of Administrative and Financial Services;

2. Debt Service - Government Facilities Authority within the Department of Administrative and Financial Services;

3. General Purpose Aid for Local Schools within the Department of Education;

4. Teacher Retirement within the Department of Education;

5. Retired Teachers' Health Insurance within the Department of Education;

6. Retired Teachers Group Life Insurance within the Department of Education;

7. Education in Unorganized Territory within the Department of Education;

8. All MaineCare programs within the Department of Health and Human Services subject to the transfer authority authorized in Public Law 2011, chapter 380, Part VV, except the Bureau of Medical Services program;

9. The Maine Commission on Indigent Legal Services;

10. Retirement System - Retirement Allowance Fund within the Maine Public Employees Retirement System;

11. All programs of the University of Maine System, the Maine Community College System and the Maine Maritime Academy;

12. All programs within the Department of Inland Fisheries and Wildlife; and

13. Debt Service - Treasury within the Office of the Treasurer of State.

**Sec. N-3. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Deappropriates funds as a proportional reduction of All Other appropriations to the General Fund programs and accounts identified in this Part.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$4,555,159)
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GENERAL FUND TOTAL	\$0	(\$4,555,159)

**PART O**

**Sec. O-1. 22 MRSA §3174-TT** is enacted to read:

**§3174-TT. Limitation on reimbursement for opioids**

**1. Limitation.** Except as provided in subsection 3, beginning April 1, 2012, the maximum time period for reimbursement under the MaineCare program for opioids is set forth in this subsection.

A. For a MaineCare member who is receiving treatment for HIV or AIDS or for cancer or who is in hospice care, reimbursement must be provided for the duration of the treatment or care.

B. For a MaineCare member who is receiving inpatient treatment in a hospital, reimbursement must be provided for the duration of the inpatient hospitalization.

C. Except as provided in subsection 2, for a MaineCare member who is receiving any treatment other than the treatments or care described in paragraph A or B, the maximum time period for reimbursement is 15 consecutive days.

**2. Authorization for reimbursement for longer than 15 consecutive days.** For a MaineCare member who is receiving treatment under subsection 1, paragraph C, the department may authorize reimbursement for a period longer than 15 consecutive days in accordance with this subsection.

A. The department may authorize reimbursement after the first 15 consecutive days for an initial extension period of an additional 15 consecutive days.

B. The department may authorize reimbursement after the initial extension period authorized in paragraph A for a final extension period of 15 consecutive days.

The department may not authorize an extension beyond the final extension period authorized in paragraph B.

The department shall adopt rules to implement this subsection. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**3. Exception; treatment of chronic pain for one year or longer.** For a MaineCare member who on April 1, 2012 has been receiving opioids for the treatment of chronic pain for one year or longer continuously, the limitation on the maximum time periods for reimbursement under the MaineCare program for opioids set forth in subsection 1 takes effect September 1, 2012.

**PART P**

**Sec. P-1. 36 MRSA §4641-B, sub-§4-B, ¶B,** as enacted by PL 2011, c. 453, §6, is amended to read:

B. In fiscal year 2012-13, the Treasurer of State shall credit the revenues derived from the tax im-

posed pursuant to section 4641-A, subsection 1 in accordance with this paragraph.

(1) At the beginning of the fiscal year, the Maine State Housing Authority shall certify to the Treasurer of State the amount that is necessary and sufficient to meet the authority's obligations relating to bonds issued or planned to be issued by the authority under Title 30-A, section 4864.

(2) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first pay revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Maine Energy, Housing and Economic Recovery Fund established in Title 30-A, section 4863, until the amount paid equals the amount certified by the Maine State Housing Authority under subparagraph (1), after which the Treasurer of State shall credit any remaining revenues available under this subparagraph to the General Fund.

(3) On a monthly basis the Treasurer of State shall apply 50% of the revenues in accordance with this subparagraph. The Treasurer of State shall first credit \$300,000 of the revenues available under this subparagraph to the Department of Health and Human Services, Medical Care - Payments to Providers, Other Special Revenue Funds account and \$3,950,000 of the revenues available under this subparagraph to the General Fund, after which the Treasurer of State shall pay any remaining revenues available under this subparagraph to the Maine State Housing Authority, which shall deposit the funds in the Housing Opportunities for Maine Fund created in Title 30-A, section 4853.

**Sec. P-2. Legislative intent.** It is the intent of the Legislature that funding provided by the Maine State Housing Authority from the Housing Opportunities for Maine Fund for individuals who are homeless and those most vulnerable to homelessness will not be reduced as a result of this Part.

**PART Q**

**Sec. Q-1. Transfer of available Other Special Revenue Funds balances.** The Commissioner of Administrative and Financial Services shall review cash balances in Other Special Revenue Funds accounts statewide and shall transfer a total of \$2,000,000 of balances the commissioner determines available to the General Fund no later than June 30, 2012. The commissioner shall work with executive branch departments and agencies statewide to identify the available balances in Other Special Revenue Funds

accounts prior to March 15, 2012 and provide a report to the Joint Standing Committee on Appropriations and Financial Affairs of the affected accounts and the amounts to be transferred no later than March 15, 2012.

#### PART R

**Sec. R-1. Transfers from available fiscal year 2011-12 Other Special Revenue Funds balances within Department of Professional and Financial Regulation to General Fund.** Notwithstanding any other provision of law, at the close of fiscal year 2011-12, the State Controller shall transfer \$3,000,000 from available balances in Other Special Revenue Funds accounts within the Department of Professional and Financial Regulation to the General Fund unappropriated surplus. On or before June 30, 2012, the Commissioner of Professional and Financial Regulation shall determine from which accounts the funds must be transferred so that the sum equals \$3,000,000 and notify the State Controller and the Joint Standing Committee on Appropriations and Financial Affairs of the amounts to be transferred from each account.

#### PART S

**Sec. S-1. General Fund Salary Plan; lapse to General Fund unappropriated surplus.** Notwithstanding any other provision of law, the State Controller shall lapse \$600,000 from the General Fund Salary Plan program in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund at the close of fiscal year 2012-13.

#### PART T

**Sec. T-1. Transfers from available fiscal year 2011-12 balances in Workers' Compensation Board - Reserve Account within Maine Workers' Compensation Board, Other Special Revenue Funds to General Fund.** Notwithstanding any other provision of law, at the close of fiscal year 2011-12, the State Controller shall transfer \$500,000 from available balances in the Workers' Compensation Board - Reserve Account within the Maine Workers' Compensation Board, Other Special Revenue Funds to the General Fund unappropriated surplus.

#### PART U

**Sec. U-1. Payments to State from Loan Insurance Reserve Fund.** Notwithstanding any other provision of law, the Finance Authority of Maine shall transfer \$1,000,000 from the Loan Insurance Reserve Fund to the State as undedicated General Fund revenue no later than June 30, 2012 and an additional \$1,000,000 from the Loan Insurance Reserve Fund to the State as undedicated General Fund revenue no later than June 30, 2013.

#### PART V

**Sec. V-1. Lapsed balances; Legislature, General Fund accounts.** Notwithstanding any other provision of law, \$2,225 of unencumbered balance forward in the Personal Services line category and \$5,775 in the All Other line category in the Study Commissions - Funding, General Fund account in the Legislature lapses to the General Fund in fiscal year 2011-12. Additionally, \$304,575 of unencumbered balance forward in the Personal Services line category and \$1,079,000 in the All Other line category in the Legislature, General Fund account in the Legislature lapses to the General Fund in fiscal year 2011-12.

**Sec. V-2. Lapsed balances; Law and Legislative Reference Library, General Fund account.** Notwithstanding any other provision of law, \$12,425 of unencumbered balance forward in the Personal Services line category in the Law and Legislative Reference Library, General Fund account in the Law and Legislative Reference Library lapses to the General Fund in fiscal year 2011-12.

#### PART W

**Sec. W-1. Adult developmental services working group.** The Commissioner of Health and Human Services shall convene a working group to develop plans to address the need for efficiencies and savings in adult developmental services. The commissioner shall invite the participation of individuals who represent parents, self-advocates, advocacy organizations representing consumers of services and organizations representing service providers. The working group shall make recommendations to the commissioner regarding the following in relation to the Department of Health and Human Services:

1. Developing ongoing efficiencies in administrative policies and practices;
2. Increasing the use of technology to create further efficiencies in service delivery;
3. Expanding the use of resource allocation processes to reduce the overuse of services;
4. Exploring changes in waivers to create incentives for the reduction of paid support staff;
5. Resolving outstanding issues regarding the employment classification of host families within the shared living service model;
6. Amending the so-called Section 29 Supports Waiver of the MaineCare Benefits Manual to increase flexibility and enhance family supports to allow families to keep their adult children at home longer; and
7. Reviewing the standardized rate system methodology using an assessment tool developed by the department incorporating the support intensity scale developed by the American Association on Intellectual and Developmental Disabilities to determine if there

are, or have been, any unanticipated effects on the community support system.

The commissioner shall provide to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters progress reports on September 1, 2012, January 1, 2013 and April 1, 2013 and a report containing the working group's final recommendations on July 1, 2013. The commissioner shall consider the working group's recommendations and the need to provide services to persons on waiting lists for adult developmental services when developing the 2014-2015 biennial budget submission.

### PART X

**Sec. X-1. Transfer from Dirigo Health Fund to Other Special Revenue Funds.** Notwithstanding any other provision of law, the State Controller shall transfer \$10,472,800 on or before June 30, 2012 from the Dirigo Health Fund to the Medical Care - Payments to Providers, Other Special Revenue Funds account in the Department of Health and Human Services, of which \$10,000,000 must be used for the MaineCare seed for the childless adult waiver and \$472,800 must be used for the MaineCare seed for Cub Care children in families with incomes greater than or equal to 150% but less than 200% of the nonfarm income official poverty line.

Notwithstanding any other provision of law, the State Controller shall transfer \$2,556,881 on or before June 30, 2013 from the Dirigo Health Fund to the Medical Care - Payments to Providers, Other Special Revenue Funds account in the Department of Health and Human Services to be used for the MaineCare seed for Cub Care children in families with incomes greater than or equal to 150% but less than 200% of the nonfarm income official poverty line.

### PART Y

**Sec. Y-1. 24-A MRSA §6914**, as amended by PL 2011, c. 380, Pt. BBB, §1, is further amended to read:

#### §6914. Intragovernmental transfer

Starting July 1, 2004, and ending September 30, 2012, Dirigo Health shall transfer funds, as necessary, to a special dedicated, nonlapsing revenue account administered by the agency of State Government that administers MaineCare for the purpose of providing a state match for federal Medicaid services provided to individuals eligible pursuant to Title 22, section 3174-G, subsection I, paragraph E whose nonfarm income is greater than 150% of the nonfarm income official poverty line and is below or equal to 200% of the nonfarm income official poverty line. Dirigo Health shall annually set the amount of contribution.

Beginning January 1, 2012, and ending September 30, 2012, Dirigo Health shall transfer funds as necessary to a special dedicated, nonlapsing revenue account administered by the agency of State Government that administers MaineCare for the purpose of providing a state match for federal Medicaid services provided to individuals eligible pursuant to Title 22, section 3174-G, subsection 1, paragraph E whose nonfarm income is greater than 133% of the nonfarm income official poverty line and is below or equal to 150% of the nonfarm income official poverty line. Dirigo Health shall annually set the amount of contribution.

Beginning September 1, 2012, but not later than June 30, 2013, Dirigo Health shall transfer \$2,397,939 from the Dirigo Health Enterprise Fund to the Medical Care - Payments to Providers, Other Special Revenue Funds account in the Department of Health and Human Services for the purpose of providing a state match for federal Medicaid services.

### PART Z

**Sec. Z-1. 22 MRSA §3174-G, sub-§1, ¶E**, as amended by PL 2011, c. 380, Pt. KK, §2, is further amended to read:

E. ~~The~~ On or before September 30, 2012, the parent or caretaker relative of a child described in paragraph B or D when the child's family income is equal to or below 200% of the nonfarm income official poverty line, subject to adjustment by the commissioner under this paragraph and beginning October 1, 2012, the parent or caretaker relative of a child described in paragraph B or D when the child's family income is equal to or below 133% of the nonfarm income official poverty line, subject to adjustment by the commissioner under this paragraph. Medicaid services provided under this paragraph must be provided within the limits of the program budget. Funds appropriated for services under this paragraph must include an annual inflationary adjustment equivalent to the rate of inflation in the Medicaid program. On a quarterly basis, the commissioner shall determine the fiscal status of program expenditures under this paragraph. If the commissioner determines that expenditures will exceed the funds available to provide Medicaid coverage pursuant to this paragraph, the commissioner must adjust the income eligibility limit for new applicants to the extent necessary to operate the program within the program budget. If, after an adjustment has occurred pursuant to this paragraph, expenditures fall below the program budget, the commissioner must raise the income eligibility limit to the extent necessary to provide services to as many eligible persons as possible within the fiscal constraints of the program budget, as long as on or before September 30, 2012 the income limit does not exceed

200% of the nonfarm income official poverty line and, beginning October 1, 2012, the income limit does not exceed 133% of the nonfarm income official poverty line;

#### PART AA

**Sec. AA-1. MaineCare childless adult waiver spending within \$40,000,000.** Notwithstanding any other provision of law, the Commissioner of Health and Human Services shall continue the freeze on new enrollment in the MaineCare childless adult waiver program in order to keep spending within an annual \$40,000,000 limit in fiscal year 2012-13. If on or after October 1, 2012 the Commissioner of Health and Human Services determines that the freeze on enrollment will not be sufficient to maintain spending within the \$40,000,000 limit for fiscal year 2012-13, the commissioner shall submit a plan to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters that achieves the necessary savings through a waiver program benefit redesign as the next course of action.

**Sec. AA-2. Quarterly report on MaineCare childless adult waiver.** The Department of Health and Human Services shall provide 4 quarterly reports on enrollment and spending in fiscal year 2012-13 in the MaineCare childless adult waiver program to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters. The first report on the first quarter of fiscal year 2012-13 is due October 1, 2012 with the 3 subsequent reports due 30 days after the close of each quarter.

**Sec. AA-3. Transition of categorically eligible individuals.** In recognition of the expiration on December 31, 2013 of the federal waiver for the MaineCare childless adult waiver program, the Department of Health and Human Services, in accordance with federal requirements, shall submit a plan by June 30, 2013 to transition categorically eligible individuals who are enrolled in the program to available MaineCare coverage options by December 31, 2013.

#### PART BB

**Sec. BB-1. Generic drugs in the MaineCare program.** To the extent allowed by federal law, the Department of Health and Human Services shall amend the rules on MaineCare benefits to require substitution for a brand-name drug of a generic and therapeutically equivalent drug as required by the Maine Revised Statutes, Title 32, section 13781 unless the prescriber has indicated that only the brand-name

drug may be dispensed and that the brand-name drug is medically necessary and the department has previously authorized dispensing the brand-name drug. Medical necessity must be determined by the prescriber. The rules must exempt from mandatory substitution brand-name drugs for children and pregnant women, brand-name drugs required by federal law, brand-name drugs for the treatment of cancer, HIV or AIDS, brand-name antipsychotic drugs and brand-name drugs that have been determined by the department to be more cost-effective for the department than a generic and therapeutically equivalent drug.

#### PART CC

**Sec. CC-1. Equalization of MaineCare reimbursement rates for inpatient substance abuse and inpatient psychiatric treatment provided in community hospitals.** To achieve equalization of reimbursement rates, the Commissioner of Health and Human Services shall review MaineCare reimbursement rates for inpatient substance abuse treatment and inpatient psychiatric treatment provided by community hospitals. The commissioner shall report to the Joint Standing Committee on Appropriations and Financial Affairs and to the Joint Standing Committee on Health and Human Services no later than July 1, 2012 on the results of the review, including findings regarding the levels of services being provided and the levels of reimbursement, and an analysis of how the current reimbursement rates are calculated. The report must include a plan for correcting any inequities.

**Sec. CC-2. Rules.** The Department of Health and Human Services shall amend the MaineCare reimbursement rules to achieve any savings from equalization of reimbursement rates required under section 1. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

#### PART DD

**Sec. DD-1. 8 MRSA §1036, sub-§2, ¶E,** as amended by PL 2011, c. 380, Pt. II, §1, is further amended to read:

E. Ten percent of the net slot machine income must be forwarded by the board to the State Controller ~~to be~~ and except as otherwise provided in this paragraph credited to the Fund for a Healthy Maine established by Title 22, section 1511 and segregated into a separate account under Title 22, section 1511, subsection 11, with the use of funds in the account restricted to the purposes described in Title 22, section 1511, subsection 6, paragraph E. For the fiscal years ending June 30, 2010, June 30, 2011, and June 30, 2012 ~~and June 30, 2013~~, the amount credited annually by the State Controller to the Fund for a Healthy Maine under this paragraph may not exceed \$4,500,000 annually

and any funds in excess of \$4,500,000 annually during these fiscal years must be credited as General Fund undedicated revenue, and, for the fiscal year ending June 30, 2013, the amount credited by the State Controller to the Fund for a Healthy Maine under this paragraph is \$2,500,000;

**PART EE**

**Sec. EE-1. Emergency rule-making authority; health and human services matters.** Upon notification to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, the Department of Health and Human Services is authorized to adopt emergency rules on or before June 30, 2013 under the Maine Revised Statutes, Title 5, sections 8054 and 8073 in order to implement those provisions of this Act over which the department has subject matter jurisdiction for which specific authority has not been provided in any other part of this Act. Notwithstanding Title 5, section 8054, subsections 1 and 2, the Department of Health and Human Services is not required to find that immediate adoption is necessary to avoid a threat to public health, safety or general welfare.

**PART FF**

**Sec. FF-1. PL 2011, c. 452, §3** is repealed.

**PART GG**

**Sec. GG-1. Lapse available balance.** Notwithstanding any other provision of law, at the close of fiscal year 2011-12, the State Controller shall lapse \$5,000,000 from the Bureau of Medical Services account within the Department of Health and Human Services to the unappropriated surplus of the General Fund.

**PART HH**

**Sec. HH-1. PL 2011, c. 380, Pt. JJJ, §1** is amended to read:

**Sec. JJJ-1. Transfer from Other Special Revenue Funds to unappropriated surplus of the General Fund.** Notwithstanding any other provision of law, the State Controller shall transfer ~~\$43,000,000~~ \$103,500,000 on June 30, 2012 from Other Special Revenue Funds to the unappropriated surplus of the General Fund. On July 1, 2012, the State Controller shall transfer ~~\$43,000,000~~ \$103,500,000 from the General Fund unappropriated surplus to Other Special Revenue Funds as repayment. This transfer is considered an interfund advance.

**PART II**

**Sec. II-1. 36 MRSA §2896** is enacted to read:

**§2896. Hospital assessment; 2012-2013**

**1. Assessment.** For state fiscal year 2012-13, an assessment is imposed against each hospital in the State. The assessment is equal to 0.39% of net operating revenue as identified on the hospital's most recent audited financial statement for the hospital's fiscal year that ended during calendar year 2008.

**2. Return required.** A person subject to the assessment imposed under this section shall submit to the assessor a return on a form prescribed and furnished by the assessor. The assessment is payable in 2 payments. The first payment is due by September 30, 2012. The 2nd payment is due by March 30, 2013.

**3. Application of revenues.** All revenues received by the assessor under subsection 1 must be credited to the General Fund.

**PART JJ**

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

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

**Medical Care - Payments to Providers 0147**

Initiative: Provides funding to restore the 3% reduction in funding to certain institutes for mental disease.

GENERAL FUND	2011-12	2012-13
All Other	\$70,000	\$280,000
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GENERAL FUND TOTAL	\$70,000	\$280,000
FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$120,580	\$482,320
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FEDERAL EXPENDITURES FUND TOTAL	\$120,580	\$482,320

**Medical Care - Payments to Providers 0147**

Initiative: Provides funding to allow for reimbursement to hospitals when a MaineCare patient is subsequently readmitted to the hospital from 3 days to 14 days following an inpatient admission for the same diagnosis.

GENERAL FUND	2011-12	2012-13
All Other	\$170,190	\$907,680
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GENERAL FUND TOTAL	\$170,190	\$907,680

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$294,842	\$1,563,418
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$294,842</b>	<b>\$1,563,418</b>

**Medical Care - Payments to Providers 0147**

Initiative: Restores funding reduced in this Act for outpatient services at acute care hospitals.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$3,180,269
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$3,180,269</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	\$5,478,236
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$5,478,236</b>

**Medical Care - Payments to Providers 0147**

Initiative: Restores funding reduced in this Act from reducing reimbursement for critical access hospitals from 109% to 105%.

GENERAL FUND	2011-12	2012-13
All Other	\$290,834	\$1,179,804
<b>GENERAL FUND TOTAL</b>	<b>\$290,834</b>	<b>\$1,179,804</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$503,794	\$1,987,455
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$503,794</b>	<b>\$1,987,455</b>

**Medical Care - Payments to Providers 0147**

Initiative: Restores funding reduced in this Act from limiting reimbursement for hospital admissions to 5 per member per year.

GENERAL FUND	2011-12	2012-13
All Other	\$91,890	\$490,081
<b>GENERAL FUND TOTAL</b>	<b>\$91,890</b>	<b>\$490,081</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$159,176	\$825,573
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$159,176</b>	<b>\$825,573</b>

**Medical Care - Payments to Providers 0147**

Initiative: Restores funding reduced in this Act from reducing funding for outpatient services at acute care hospitals by 5%, effective July 1, 2012.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$3,180,269
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$3,180,269</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	\$5,357,366
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$5,357,366</b>

**Medical Care - Payments to Providers 0147**

Initiative: Restores funding reduced in this Act from reducing reimbursement for hospital inpatient services by 10%.

GENERAL FUND	2011-12	2012-13
All Other	\$768,208	\$3,127,406
<b>GENERAL FUND TOTAL</b>	<b>\$768,208</b>	<b>\$3,127,406</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$2,098,929	\$5,268,314
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$2,098,929</b>	<b>\$5,268,314</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$1,391,122</b>	<b>\$12,345,509</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$3,177,321</b>	<b>\$20,962,682</b>

DEPARTMENT TOTAL -	\$4,568,443	\$33,308,191
ALL FUNDS		

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.

Effective February 23, 2012, unless otherwise indicated.

**CHAPTER 478**

**H.P. 1216 - L.D. 1607**

**An Act To Preserve the Integrity of the Maine Certified Public Accountant Examination**

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

**Whereas,** this legislation needs to take effect before the expiration of the 90-day period in order to strengthen the requirements for taking the certified public accountant examination 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.** 32 MRSA §12228, sub-§3, ¶C, as repealed and replaced by PL 2007, c. 695, Pt. A, §37, is amended to read:

C. An examination applicant who has successfully completed the basic courses in accounting and auditing required by paragraph B and who expects to complete a minimum 4-year baccalaureate or higher degree required in paragraph B within 120 days following the examination is eligible to take the examination. Grades may not be released, nor may credit for the examination or any part of the examination be given to the applicant unless the degree required in paragraph B is completed within 120 days following the examination or within such time as the board in its sole discretion may determine.

**Sec. 2. Application.** This Act applies to applications to take the certified public accountant exami-

nation made on or after the effective date of this Act. Applicants who sat for any part of the examination prior to the effective date of this Act may continue to sit for any remaining part or parts of the examination prior to successfully completing the basic courses in accounting and auditing required by the Maine Revised Statutes, Title 32, section 12228, subsection 3, paragraph B, so long as all parts of the examination are passed within 18 months of the date the candidate first sat for any section of the examination. Applicants who sat for any part of the examination prior to the effective date of this Act but fail to pass all parts of the examination within 18 months of the date the candidate first sat for any section of the examination must successfully complete the basic courses in accounting and auditing required by Title 32, section 12228, subsection 3, paragraph B before taking any additional parts of the examination.

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

Effective February 29, 2012.

**CHAPTER 479**

**H.P. 426 - L.D. 543**

**An Act To Protect Legislative Intent in Rulemaking**

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

**Sec. 1.** 5 MRSA §8053, sub-§1, ¶B, as amended by PL 2003, c. 207, §1, is further amended to read:

B. Any person who has filed within the past year a written or electronic request with the agency for notice of rulemaking; ~~and~~

**Sec. 2.** 5 MRSA §8053, sub-§1, ¶C, as amended by PL 1995, c. 373, §4, is further amended to read:

C. Any trade, industry, professional, interest group or regional publication that the agency considers effective in reaching the persons affected; ~~and~~

**Sec. 3.** 5 MRSA §8053, sub-§1, ¶E is enacted to read:

E. The primary sponsor of the legislation that was enacted and authorized the rulemaking, as long as the legislation was enacted within the previous 2 years.

**Sec. 4.** 5 MRSA §8053-A, sub-§§5 and 6 are enacted to read:

**5. Annual lists of rule-making activity.** By February 1st of each year, the Secretary of State shall provide the Executive Director of the Legislative Council lists by agency of all rules adopted by each agency in the previous calendar year. The Executive Director of the Legislative Council shall refer each list to the appropriate joint standing committee or committees of the Legislature for review. Each list must include for each rule the following information, which must be submitted by each agency to the Secretary of State:

- A. The statutory authority for the rule and the rule chapter number and title;
- B. The principal reason or purpose for the rule;
- C. A written statement explaining the factual and policy basis for each rule adopted pursuant to section 8052, subsection 5;
- D. If the rule adopted was routine technical or major substantive;
- E. If the rule was adopted as an emergency; and
- F. The fiscal impact of the rule.

**6. Authority to report out legislation.** After each appropriate joint standing committee of the Legislature has received a list of rule-making activity pursuant to subsection 5, the committee may require an agency to appear before the committee, and the committee may report out legislation in the same legislative session in which the report is received to adjust rule-making authority related to the rules adopted in the previous calendar year.

See title page for effective date.

## CHAPTER 480

H.P. 1206 - L.D. 1599

### An Act To Amend Deferred Disposition under the Maine Juvenile Code

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

**Sec. 1. 15 MRSA §3311-A**, as enacted by PL 2011, c. 384, §1, is amended to read:

#### **§3311-A. Eligibility for deferred disposition**

A juvenile who has entered an admission to a juvenile crime that would be a Class C, Class D or Class E crime or a civil ~~offense~~ violation if committed by an adult and who consents in writing to a deferred disposition is eligible for a deferred disposition pursuant to section 3311-B.

**Sec. 2. 15 MRSA §3311-B, sub-§1**, as enacted by PL 2011, c. 384, §2, is amended to read:

**1. Imposition.** Following the acceptance of an admission of commission of a juvenile crime for which a juvenile is eligible for a deferred disposition under section 3311-A, the court may order disposition deferred to a date certain or determinable and impose requirements upon the juvenile to be in effect during the period of deferment that are considered by the court to be reasonable and appropriate to meet the purposes of the Maine Juvenile Code. The court-imposed deferment requirements must include a requirement that the juvenile refrain from conduct that would constitute a juvenile crime, crime or civil ~~offense~~ violation. Unless the juvenile crime is one under section 3103, subsection 1, paragraph B or C, the court-imposed deferment requirements may include that the juvenile abide by specific conditional release requirements under supervision by a juvenile community corrections officer. In exchange for the deferred disposition, the juvenile shall abide by the court-imposed deferment requirements. Unless the court orders otherwise, the ~~department~~ deferment requirements are immediately in effect.

**Sec. 3. 15 MRSA §3311-B, sub-§2**, as enacted by PL 2011, c. 384, §2, is amended to read:

**2. Amendment of requirements.** During the period of deferment and upon application by the juvenile granted deferred disposition pursuant to subsection 1 or by the attorney for the State or upon the court's own motion, the court may, after a hearing upon notice to the attorney for the State and the juvenile, modify the requirements imposed by the court, add further requirements or relieve the juvenile of any requirement imposed by the court that, in the court's opinion, imposes an unreasonable burden on the juvenile. If the requirements proposed for amendment are conditional release requirements, the juvenile community corrections officer must also receive notice of the hearing. In addition, the juvenile community corrections officer may make an application under this subsection for an amendment of conditional release requirements.

**Sec. 4. 15 MRSA §3311-C, sub-§§2 and 6**, as enacted by PL 2011, c. 384, §3, are amended to read:

**2. Violation of deferment requirement.** If during the period of deferment the attorney for the State has probable cause to believe that a juvenile who was granted deferred disposition pursuant to section 3311-B has violated a court-imposed deferment requirement, the attorney for the State may move the court to terminate the remainder of the period of deferment and impose disposition. Following notice and hearing, if the attorney for the State proves by a preponderance of the evidence that the juvenile has inexcusably failed to comply with a court-imposed deferment requirement, the court may continue the running of the period of deferment with the requirements unchanged, modify the requirements, add further re-

quirements or terminate the running of the period of deferment and conduct a dispositional hearing and impose a disposition authorized for the juvenile crime to which the juvenile entered an admission. If the court finds that the juvenile has not inexcusably failed to comply with a court-imposed deferment requirement, the court may order that the running of the period of deferment continue or, after notice and hearing, take any other action permitted under this chapter. If the alleged violation is of a conditional release requirement, the juvenile community corrections officer must receive notice of the hearing.

**6. Warrant for arrest.** If during the period of deferment the attorney for the State has probable cause to believe that a juvenile who was granted deferred disposition pursuant to section 3311-B has violated a court-imposed deferment requirement, the attorney for the State may apply for a warrant for the arrest of the juvenile. If the alleged violation is of a conditional release requirement, the juvenile community corrections officer must receive notice of the application. In addition, if the alleged violation is of a conditional release requirement, the provisions of section 3203-A, subsection 9 apply.

See title page for effective date.

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**CHAPTER 481**

**H.P. 1233 - L.D. 1643**

**An Act To Enhance a  
Community's Ability To  
Establish or Update Its  
Veterans Honor Roll**

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

**Sec. 1.** 37-B MRSA §509, sub-§5 is enacted to read:

**5. Release of information for veterans honor roll.** Upon request in a manner determined by the bureau, the bureau may release the following information relating to a person from a municipality who has honorably served in the United States Armed Forces to a municipal official, as defined in Title 30-A, section 2001, subsection 11, for the purpose of establishing or updating a veterans honor roll in that municipality:

- A. The name of the person;
- B. The date the person entered the service;
- C. The branch of the service entered; and
- D. The date the person was honorably discharged.

See title page for effective date.

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**CHAPTER 482**  
**S.P. 527 - L.D. 1617**

**An Act To Authorize the  
Commissioner of  
Transportation To Allow  
Certain Vehicles To Operate  
on the Interstate System**

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

**Whereas,** federal law has been enacted to allow vehicles up to 100,000 pounds gross vehicle weight on all of the interstate system in the State for a period of 20 years; and

**Whereas,** in order to ensure that Maine is in conformity with the federal law, this legislation provides rule-making authority to the Commissioner of Transportation; and

**Whereas,** allowing heavier vehicles to travel on the interstate system in the State rather than on local roads promotes safety, reduces pollution and allows for more cost-effective commercial transportation; 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.** 29-A MRSA §2355-B is enacted to read:

**§2355-B. Exemption for weight, axle and configuration limits on interstate system**

Notwithstanding the weight, axle and configuration limits specified in section 2355, subsections 1 to 3, for as long as the provisions of 23 United States Code, Section 127(a)(11) affording an exemption from the federal vehicle weight limitations for vehicles operating on all portions of the interstate system are in effect, the Commissioner of Transportation, by rule, may allow the operation of a vehicle on the interstate system if the vehicle complies with the provisions of this chapter applicable to the operation of vehicles on public ways other than the interstate system. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. As used in this section, "interstate system" has the same meaning as in Title 23, section 1903, subsection 3.

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

Effective March 5, 2012.

**CHAPTER 483**

**H.P. 1279 - L.D. 1729**

**An Act To Clarify the Minimum Wage Law as It Relates to People with Disabilities**

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

**Sec. 1. 26 MRSA §666**, as amended by PL 1971, c. 620, §13, is further amended to read:

**§666. Workers with disabilities**

For any employment ~~in~~ to which the minimum wage is applicable, the director may issue to an employer for any person ~~physically handicapped by age, or otherwise, with a disability~~ a special certificate authorizing the employment of such person for a period not to exceed one year at a wage less than the minimum wage established by this subchapter ~~employer to pay that person a wage less than the minimum wage, based on the ability of the person to perform the duties required for that employment in comparison to the ability of a person who does not have a disability to perform the same duties.~~ The director may hold such hearings and conduct such investigations as ~~he shall deem~~ necessary for the purpose of fixing the special minimum wage for the ~~licensee~~ person. ~~Such license~~ A certificate is valid for 2 years from the date of issue and may be renewed ~~from time to time~~ by the director. The director may issue a certificate to cover several employees with disabilities as long as the employer provides documentation justifying the special minimum wage.

See title page for effective date.

**CHAPTER 484**

**H.P. 695 - L.D. 935**

**An Act To Create Fair and Open Competition in Line Extension Construction**

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

**Sec. 1. 35-A MRSA §315** is enacted to read:

**§315. Transmission and distribution utility line extension construction**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Line" has the same meaning as in section 314, subsection 1, paragraph A.

B. "Make-ready work" means work necessary to connect a line extension to existing utility infrastructure.

**2. Line extension charge.** Amounts charged by a transmission and distribution utility serving more than 500,000 retail customers for a line extension are governed by this subsection.

A. Through a proceeding or rulemaking and in accordance with this section and section 314, the commission shall establish the method to be used by a transmission and distribution utility serving more than 500,000 retail customers for line extension pricing. The method may include the amount to be charged per foot for the completion of a line extension.

B. Revenue received by a transmission and distribution utility serving more than 500,000 retail customers from a telephone utility may not be used to offset the total cost of or amount charged to a customer for a line extension.

C. A transmission and distribution utility serving more than 500,000 retail customers shall report annually to the commission, on a date determined by the commission, the total amount charged to customers for line extensions and the total actual costs to the transmission and distribution utility serving more than 500,000 retail customers to complete those line extensions for a prior 12-month period determined by the commission.

D. If a report pursuant to paragraph C demonstrates that charges to customers for line extensions are less than 95% of total actual costs or greater than 105% of total actual costs during the reporting period, the commission, within 30 days of the date of the filing of the report, shall open an investigation to determine the appropriate adjustments to be made to the method used by the transmission and distribution utility pursuant to paragraph A to establish the amount charged to a customer for a line extension so that the total amount charged to customers is no less than 95% and no more than 105% of total actual costs for the line extensions.

**3. Cost recovery.** Any cost associated with construction of a line extension that is not recovered by a transmission and distribution utility serving more than 500,000 retail customers through the charges estab-

lished in accordance with subsection 2 must be borne by the utility and may not be recovered in rates.

**4. Fees for make-ready work.** A transmission and distribution utility serving more than 500,000 retail customers may charge a customer taking poly-phase service the actual costs of make-ready work associated with that customer's service. A transmission and distribution utility serving more than 500,000 retail customers may not charge a customer taking single-phase service for make-ready work associated with that customer's service. A transmission and distribution utility serving more than 500,000 retail customers may recover costs associated with such single-phase service make-ready work in rates.

**5. Rules.** The commission shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Nothing in this section may be construed to limit the activities of a transmission and distribution utility serving 500,000 or fewer retail customers.

See title page for effective date.

**CHAPTER 485**

**H.P. 1248 - L.D. 1696**

**An Act To Modify the Alternative Organizational Structure Budget Approval Process**

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

**Sec. 1. 20-A MRSA §1461-B, sub-§3, ¶C,** as enacted by PL 2009, c. 580, §5, is amended to read:

C. The budget procedures of member entities of an alternative organizational structure must conform to the format and referendum procedures set forth in sections 1485 and 1486 for regional school units. The budget of the alternative organizational structure must be approved at a meeting of the voters of all of the member entities conducted in accordance with the procedures applicable to a regional school unit budget meeting except as provided in paragraph D. The budget of an alternative organizational structure is not subject to a separate budget validation referendum as described in section 1486.

**Sec. 2. 20-A MRSA §1461-B, sub-§3, ¶D** is enacted to read:

D. The governing body of an alternative organizational structure, by majority vote, may authorize a change in the alternative organizational structure budget approval procedures in paragraph

C to require a budget approval by the governing body of the alternative organizational structure instead of a meeting of the voters of all of the member entities of the alternative organizational structure. The change in procedure must be authorized by a majority of the total number of voters of all of the member entities in the alternative organizational structure at the next statewide election. The article to be voted upon must be in substantially the following form:

"Article: Do you favor changing the (name of alternative organizational structure) budget approval procedure from a meeting of the voters to a vote by the governing body of the alternative organizational structure?

Yes No"

If approved by the voters, the budget approval procedure changes to a majority vote of the governing body of the alternative organizational structure at a budget meeting. This procedure must remain in effect for at least 3 budget years before the alternative organizational structure may return to the requirement that a budget be approved at a meeting of the voters of all of the member entities of the alternative organizational structure.

An article to consider reinstatement of the budget approval procedure in which the budget is approved at a meeting of the voters of all of the member entities may be placed on a warrant for referendum vote by either a majority vote of the governing body of the alternative organizational structure or by a written petition to the governing body of the alternative organizational structure signed by a number of voters of member entities of the alternative organizational structure equal to at least 10% of the voters who voted in the last gubernatorial election in the member entities of the alternative organizational structure. The governing body of the alternative organizational structure shall place the article on the next scheduled warrant or an earlier one if determined appropriate by the governing body of the alternative organizational structure. The article to be voted upon must be in substantially the following form:

"Article: Do you favor changing the (name of alternative organizational structure) budget approval procedure from a vote by the governing body of the alternative organizational structure to a meeting of the voters?

Yes No"

If approved by a majority of the total number of voters of all of the member entities in the alternative organizational structure, the budget approval procedure changes to a meeting of the voters of all of the member entities of the alternative organizational structure beginning in the next budget year

or the following budget year if the approval occurs less than 90 days before the start of the next budget year. Once approved by the voters, this procedure may not be changed for at least 3 budget years.

See title page for effective date.

## CHAPTER 486

### H.P. 1261 - L.D. 1709

#### An Act To Amend the Limited-entry Program for Taking Lobsters in the Monhegan Lobster Conservation Area

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

**Sec. 1. 12 MRSA §6421, sub-§5, ¶C**, as corrected by RR 2001, c. 2, Pt. A, §14, is amended to read:

C. Meets the requirements of the apprentice program under section 6422 ~~or section 6475~~; or

**Sec. 2. 12 MRSA §6422, sub-§4**, as amended by PL 1999, c. 281, §1 and c. 490, §3, is repealed.

**Sec. 3. 12 MRSA §6448, sub-§8, ¶A**, as amended by PL 2007, c. 204, §8, is further amended to read:

A. A person who is under 18 years of age who successfully completed the requirements of the apprentice program under section 6422 ~~or 6475~~ and who submitted documentation of completion of the apprentice program to the department before attaining 18 years of age may declare any zone as that person's declared lobster zone as long as the individual has met all apprentice program rules that may have been adopted in that zone.

**Sec. 4. 12 MRSA §6448, sub-§8, ¶E**, as enacted by PL 2009, c. 294, §1, is amended to read:

E. A person who has either successfully completed the requirements of the apprentice program under section 6422 ~~or 6475~~ or held a Class I, Class II or Class III lobster and crab fishing license in the previous calendar year and who has registered to enter an established island limited-entry program as described under section 6449 may declare as that person's declared lobster zone the zone in which that island limited-entry program is located when the person becomes eligible to enter the island limited-entry program.

**Sec. 5. 12 MRSA §6472, sub-§3**, as enacted by PL 2007, c. 219, §2, is amended to read:

**3. Trap limit.** ~~The commissioner shall establish by rule a trap limit for the open season established pursuant to subsection 2. The trap limit may not exceed 475 for the open season established pursuant to subsection 2 is 400 traps per individual registered to obtain Monhegan Lobster Conservation Area trap tags under section 6474.~~

~~A. Before establishing or amending the trap limit under this subsection, the commissioner shall determine the trap limit preferred by 2/3 of the individuals registered to obtain Monhegan Lobster Conservation Area trap tags under section 6474. The commissioner may accept the preferences proposed by 2/3 of the registrants as reasonable and adopt those preferences or reject the preferences as unreasonable. The commissioner shall consult with the lobster management policy council for Zone D before making this decision.~~

~~B. In adopting rules under this subsection, the commissioner is not required to hold a public hearing on the rules pursuant to Title 5, section 8052.~~

~~C. A person may not petition the commissioner pursuant to Title 5, section 8055 for the adoption or modification of a rule establishing the trap limit in the Monhegan Lobster Conservation Area.~~

~~D. Notwithstanding any provisions to the contrary, the commissioner may adopt rules under this subsection without the advice and consent of the Marine Resources Advisory Council. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.~~

**Sec. 6. 12 MRSA §6473, sub-§2**, as enacted by PL 2005, c. 239, §7, is repealed and the following enacted in its place:

**2. Exceptions.** The following exceptions apply to a person registered for Monhegan Lobster Conservation Area trap tags under section 6474.

A. Notwithstanding subsection 1, a person registered for Monhegan Lobster Conservation Area trap tags may serve as a crew member to assist in the licensed activities under the direct supervision of a Class I, Class II or Class III lobster and crab fishing license holder outside the Monhegan Lobster Conservation Area.

B. Notwithstanding subsection 1, a person registered for Monhegan Lobster Conservation Area trap tags who holds a federal lobster permit with a Lobster Management Area 3 designation may fish for or take lobsters from Lobster Management Area 3, as identified in the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for American Lobster.

**Sec. 7. 12 MRSA §6474, sub-§3**, as enacted by PL 1997, c. 574, §4, is repealed.

**Sec. 8. 12 MRSA §6474, sub-§4**, as enacted by PL 1997, c. 574, §4, is amended to read:

**4. Trap tag eligibility.** Except as provided under subsection 5, the commissioner may not issue Monhegan Lobster Conservation Area trap tags to a person ~~after July 31, 1999~~ unless that person:

A. Registered with the commissioner to purchase Monhegan Lobster Conservation Area trap tags for the prior open season, documents to the commissioner that the person harvested lobsters from the Monhegan Lobster Conservation Area in the prior open season and registers with the commissioner during the period between June 26th and August 1st immediately following the prior open season for Monhegan Lobster Conservation Area trap tags for the subsequent open season;

B. Registered with the commissioner to purchase Monhegan Lobster Conservation Area trap tags for the prior open season, documents to the commissioner that that person did not harvest lobsters from the Monhegan Lobster Conservation Area in the prior open season because of an illness or medical condition and registers with the commissioner during the period between June 26th and August 1st immediately following the prior open season for Monhegan Lobster Conservation Area trap tags for the subsequent open season; or

C. ~~Becomes registered for trap tag registration pursuant to section 6475~~ Meets the requirements of section 6448, subsection 8, paragraph E to enter a limited-entry program established for Monhegan Island pursuant to section 6449 and registers for Monhegan Lobster Conservation Area trap tags.

**Sec. 9. 12 MRSA §6474, sub-§6**, as enacted by PL 1997, c. 574, §4, is amended to read:

**6. Limit on number of registrants.** The total number of individuals registered to obtain Monhegan Lobster Conservation Area trap tags may not exceed ~~the number of individuals initially eligible pursuant to subsection 3, paragraphs A, B and C~~ 17.

**Sec. 10. 12 MRSA §6474, sub-§7, ¶A**, as enacted by PL 1997, c. 574, §4, is repealed.

**Sec. 11. 12 MRSA §6474, sub-§9** is enacted to read:

**9. Exception.** Notwithstanding subsection 1, a person may submerge a lobster trap in the Monhegan Lobster Conservation Area that does not have a trap tag designated for use in the Monhegan Lobster Conservation Area if that person holds a noncommercial lobster and crab fishing license issued pursuant to sec-

tion 6421, subsection 1, paragraph F and does not otherwise hold a lobster and crab fishing license.

**Sec. 12. 12 MRSA §6475**, as amended by PL 2007, c. 219, §§3 and 4, is further amended to read:

**§6475. New participants**

**1. New participants.** A person who is not registered to obtain Monhegan Lobster Conservation Area trap tags may obtain trap tags if that person becomes registered for Monhegan Lobster Conservation Area trap tags pursuant to this section.

A. ~~The~~ If a Monhegan Island limited-entry program is established pursuant to section 6449, the commissioner shall maintain a ~~registry of persons who have completed the Monhegan Lobster Conservation Area apprenticeship under paragraph B~~ waiting list of persons who have requested a Monhegan Island limited-entry lobster and crab fishing license. Each person included in the ~~registry must be listed chronologically according to the time and date the commissioner received a validated log book under paragraph B.~~

B. ~~A person fulfills the time requirements of a Monhegan Lobster Conservation Area apprenticeship if, after November 30, 1998, that person serves for 200 fishing days during a minimum period of 24 months in the Monhegan Lobster Conservation Area on a vessel operated by a Monhegan Lobster Conservation Area trap tag registrant who agrees to sponsor that person as an apprentice. For the purposes of this subsection, a "fishing day" means 5 hours or more in a calendar day of lobster fishing related activity. The commissioner shall administer the apprenticeship pursuant to rules adopted under section 6422 regarding an apprentice log book and educational courses. A person completes a Monhegan Lobster Conservation Area apprenticeship upon presentation to the commissioner of a validated log book that documents that person meets the requirements of this paragraph.~~

C. A person listed ~~in the registry on the waiting list~~ under paragraph A may register for Monhegan Lobster Conservation Area trap tags if:

- (1) ~~That person possesses a Class I, Class II or Class III lobster and crab fishing license;~~
- (2) ~~That person has been listed in the registry longer than all other persons listed; and~~
- (3) ~~A person registered for trap tags in an open season does not register to obtain trap tags for the subsequent open season under section 6474, subsection 4, paragraph A or B. The commissioner has established that the number of individuals registered to fish in the Monhegan Lobster Conservation Area for the upcoming season is less than the allowable~~

number of registrants established pursuant to section 6474, subsection 6.

The commissioner shall by August 15th notify a person who becomes eligible for registration under this paragraph. If that person does not register with the commissioner within 30 days, that person becomes ineligible for registration and the commissioner shall immediately notify the next individual who has been listed for the longest period of time ~~in the registry on the waiting list~~. That individual must register within 30 days.

**2. Registration in later years.** A person who registers for Monhegan Lobster Conservation Area trap tags under subsection 1 must follow the provisions of section 6474, subsection 4, paragraph A or B to register for trap tags for each subsequent open season.

**3. License requirements; apprenticeship.** ~~License requirements for an apprenticeship in the Monhegan Lobster Conservation Area are as follows:~~

~~A. A person who does not possess a Class I, Class II or Class III lobster and crab fishing license must possess an apprentice license issued under section 6421 to be an apprentice in the Monhegan Lobster Conservation Area. The waiver provisions of the apprentice program under section 6422, subsection 4 do not apply to an apprentice in the Monhegan Lobster Conservation Area.~~

~~B. A person who possesses a Class I, Class II or Class III lobster and crab fishing license is not required to possess an apprentice license issued under section 6421 to be an apprentice in the Monhegan Lobster Conservation Area.~~

**4. Issuance of commercial lobster license.** ~~A person who does not possess a Class I, Class II or Class III lobster and crab fishing license may be issued a Class I, Class II or Class III lobster and crab fishing license upon completion of the apprenticeship under subsection 1, paragraph B.~~

**5. Registrants exiting the Monhegan Lobster Conservation Area.** ~~A person who is registered to fish within the Monhegan Lobster Conservation Area and who no longer wishes to fish there may exit the area at the end of the registration period established in this section in the following manner:~~

~~A. A person who has been registered for a period of not less than 5 open seasons and who can document to the commissioner that that person has harvested lobsters in each of 5 open seasons may exit the Monhegan Lobster Conservation Area and fish elsewhere in Zone D without going on a waiting list as established in section 6448.~~

~~B. A person who has been registered for a period of less than 5 open seasons or who cannot docu-~~

~~ment to the commissioner that that person harvested lobsters in at least 5 open seasons may exit the Monhegan Lobster Conservation Area and become eligible to fish elsewhere in Zone D if that person complies with the waiting list requirement established in accordance with section 6448.~~

**Sec. 13. 12 MRSA §6476**, as enacted by PL 1997, c. 574, §4, is amended to read:

**§6476. Former registrants**

A person whose registration to obtain Monhegan Lobster Conservation Area trap tags has lapsed may be listed ~~in the registry on the waiting list~~ under section 6475, subsection 1, paragraph A and may purchase trap tags if the person becomes registered pursuant to section 6475, subsection 1, paragraph C. A person included ~~in the registry on the waiting list~~ pursuant to this subsection must be listed chronologically according to the time and date the commissioner received written notification from that person requesting that person be listed ~~in the registry on the waiting list~~.

See title page for effective date.

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**CHAPTER 487**  
**H.P. 1294 - L.D. 1759**

**An Act To Amend the Laws  
Governing the Pull Events  
Commission**

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

**Sec. 1. 7 MRSA §98, sub-§1**, as enacted by PL 2005, c. 563, §3, is amended to read:

**1. Membership.** The Pull Events Commission consists of ~~9~~ 10 members:

A. Two members appointed by a statewide association representing owners of draft horses and oxen who participate in pulling events;

B. One member appointed by ~~an a~~ a statewide association representing owners of oxen who participate in pulling events;

C. One member appointed by ~~an a~~ a statewide farmers association representing owners of ~~ponies~~ draft horses who participate in pulling events;

C-1. One member appointed by a statewide farmers association representing owners of draft oxen who participate in pulling events;

D. One fair superintendent appointed by ~~a state~~ association of agricultural fairs the commissioner;

D-1. One member appointed by a state association of agricultural fairs;

E. One representative appointed by state humane organizations;

F. One member, appointed by the commissioner, representing the general public; and

~~G. One member, appointed by the commissioner, representing the animal pulling industry; and~~

H. One member appointed by the Animal Welfare Advisory Council.

**Sec. 2. 7 MRSA §98, sub-§2**, as amended by PL 2011, c. 73, §2, is further amended to read:

**2. Chair; meetings; secretary; quorum.** The Pull Events Commission shall elect one of its members as chair. The chair serves a 2-year term and may not serve as chair for consecutive terms. The commission shall meet a minimum of twice annually. The commissioner shall designate a person to serve as secretary to the Pull Events Commission. A quorum of the commission for the transaction of business is 6 members. An action may not be taken by the commission without approval of a majority of the members present.

**Sec. 3. 7 MRSA §98, sub-§3**, as enacted by PL 2005, c. 563, §3, is amended to read:

**3. Terms; vacancies.** Appointments to the Pull Events Commission must be for terms of ~~2~~ 3 years. The appointing authority fills a vacancy for a full ~~2-year~~ 3-year term. The appointing authority may remove a commission member for cause, which includes poor attendance. The chair shall make recommendations to the appointing authority concerning a removal.

**Sec. 4. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 7, section 98, subsections 1 and 3, the terms of members appointed to the Pull Events Commission in 2012 are as follows:

1. The term of one member appointed under Title 7, section 98, subsection 1, paragraph A is one year and the term of the other member is 3 years;

2. The term of the members appointed under Title 7, section 98, subsection 1, paragraphs B, D, E and F is 2 years;

3. The term of the members appointed under Title 7, section 98, subsection 1, paragraphs C and H is one year; and

4. The term of the members appointed under Title 7, section 98, subsection 1, paragraphs C-1 and D-1 is 3 years.

See title page for effective date.

**CHAPTER 488**  
**S.P. 597 - L.D. 1740**

**An Act To Remove the Repeal Date for Outcome-based Forestry**

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

**Whereas**, this legislation seeks to extend the time during which the laws governing outcome-based forestry are in effect; and

**Whereas**, the laws governing outcome-based forestry are scheduled to be repealed July 1, 2012; 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. 12 MRSA §8003, sub-§3, ¶Q**, as amended by PL 2007, c. 271, §1, is further amended to read:

Q. The director, in cooperation with public and private landowners, shall actively pursue creating experimental areas on public and private land where the principles and applicability of outcome-based forest policy, as defined in section 8868, can be applied and tested. No more than 6 such areas may be designated. The director shall seek to designate areas representing differing forest types and conditions and from different geographic regions of the State. The term of initial agreements may not exceed 5 years. ~~This paragraph is repealed July 1, 2012.~~

**Sec. 2. 12 MRSA §8868, sub-§2-B**, as amended by PL 2007, c. 271, §2, is further amended to read:

**2-B. Outcome-based forest policy.** "Outcome-based forest policy" means a science-based, voluntary process to achieve agreed-upon economic, environmental and social outcomes in the State's forest, as an alternative to prescriptive regulation, demonstrating measurable progress towards achieving statewide sustainability goals and allowing landowners to use creativity and flexibility to achieve objectives, while providing for the conservation of public trust resources and the public values of forests. ~~This subsection is repealed July 1, 2012.~~

**Sec. 3. 12 MRSA §8869, sub-§3-A**, as amended by PL 2007, c. 271, §3, is further amended to read:

**3-A. Plans for experimental areas.** Practices applied on an experimental area created pursuant to section 8003, subsection 3, paragraph Q must provide at least the equivalent forest and environmental protection as provided by existing rules and any applicable local regulations. At a minimum, tests of outcome-based principles must address:

- A. Soil productivity;
- B. Water quality, wetlands and riparian zones;
- C. Timber supply and quality;
- D. Aesthetic impacts of timber harvesting;
- E. Biological diversity; and
- F. Public accountability.

The Governor shall appoint a panel of technical experts to work with the director to implement, monitor and assess tests of outcome-based forestry principles. In order to participate in the outcome-based forestry experiment, the landowner, director and technical panel must develop agreed-upon desired outcomes for the experimental area and develop a method for determining if the outcomes have been attained and a system for reporting results to the public. ~~This subsection is repealed July 1, 2012.~~

**Sec. 4. 12 MRSA §8869, sub-§7-A**, as amended by PL 2007, c. 271, §4, is further amended to read:

**7-A. Exemption for outcome-based forest policy experimental areas.** Outcome-based forest policy experimental areas designated under section 8003, subsection 3, paragraph Q are exempt from the requirements of this subchapter and rules adopted pursuant to this subchapter. ~~This subsection is repealed July 1, 2012.~~

**Sec. 5. 12 MRSA §8869, sub-§13**, as amended by PL 2009, c. 567, §9, is further amended to read:

**13. Confidential information.** Information provided to the bureau voluntarily or to fulfill reporting requirements for the purposes of establishing and monitoring outcome-based forest policy experimental areas, as created pursuant to section 8003, subsection 3, paragraph Q, is public unless the person to whom the information belongs or pertains requests that it be designated as confidential and the bureau has determined it contains proprietary information. For the purposes of this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the information and would make

available information not otherwise publicly available. The bureau, working with the landowner and the panel of technical experts appointed under subsection 3-A, may publish reports as long as those reports do not reveal confidential information. ~~This subsection is repealed July 1, 2012.~~

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

Effective March 8, 2012.

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**CHAPTER 489**  
**H.P. 1304 - L.D. 1772**

**An Act To Enforce Prompt  
Payment to Career and  
Technical Education Regions**

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

**Sec. 1. 20-A MRSA §8463-A** is enacted to read:

**§8463-A. Enforcement of payment of assessment**

**1. School warrant; monthly installment.** Following the assessment of each unit pursuant to section 8463, the school officials of each unit in the region shall place on the school warrant for payment the first of each month an installment equal to 1/12 of the unit's share of the region's budget.

**2. Notification of failure to pay.** If a unit fails to pay the monthly installment or any portion of the installment set forth in the school warrant in accordance with subsection 1, in order to initiate collection procedures pursuant to subsection 4, the career and technical education director of the region shall notify the superintendent of the unit of the unit's failure to pay.

**3. Interest.** Interest accrues on each installment under subsection 1 that is not paid at the rate established under Title 36, section 186 beginning on the 60th day after the date the installment is due under subsection 1.

**4. Judicial enforcement.** If payment of an installment under subsection 1 to a region is not made within 60 days after the date the installment is due, the career and technical education director of the region may initiate an action in Superior Court to compel payment of the delinquent installment. The court shall determine the amount owed by the unit to the region and shall order the superintendent of the unit to pay all delinquent installments, accrued interest and any court costs and reasonable attorney's fees incurred by the region. To ensure prompt payment of the delinquent installments, the court may require that amounts due to

the unit from the State or a member municipality be paid to the region until the amount determined by the court is satisfied. The court shall promptly notify the disbursing agency or municipality of the determination and direct the agency or municipality to make the required change in payee and the amounts to be paid. If additional funds are needed to satisfy the amount determined by the court to be paid to the region, the court may order the attachment or trustee process and sale of real or personal property owned by the unit or the attachment of the unit's bank accounts and may pay the amount owed the region from the proceeds and return any excess to the unit.

See title page for effective date.

**CHAPTER 490  
H.P. 1230 - L.D. 1640**

**An Act To Promote POW/MIA  
Recognition Day**

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

**Sec. 1. 1 MRSA §136**, as enacted by PL 1999, c. 302, §1, is amended to read:

**§136. Prisoner of War - Missing in Action Recognition Day**

The Governor annually shall issue a proclamation designating the 3rd Friday in September as Prisoner of War - Missing in Action Recognition Day in remembrance of the courage and plight of American prisoners of war and those missing in action. The proclamation must recommend that the day be observed in an appropriate manner. The State of Maine flag must be flown at half staff when the Governor considers it appropriate. The Governor may issue the proclamation through a media outlet as defined in Title 3, section 312-A, subsection 10-B. The Department of Education and the Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services shall make appropriate information available to citizens, schools, organizations and groups within the limits of their budgets.

See title page for effective date.

**CHAPTER 491  
H.P. 1327 - L.D. 1800**

**An Act To Conform Maine  
Apprenticeship Program  
Standards with Federal  
Apprenticeship Regulations**

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

**Sec. 1. 1 MRSA §72, sub-§17-A**, as enacted by PL 1993, c. 630, Pt. B, §1, is amended to read:

**17-A. Registered apprenticeship.** "Registered apprenticeship" means an apprenticeship program registered with the ~~State Apprenticeship and Training Council under Title 26, chapter 11~~ Maine Apprenticeship Program in accordance with Title 26, chapter 37.

**Sec. 2. 5 MRSA §7072, 2nd ¶**, as amended by PL 1993, c. 630, Pt. B, §2, is further amended to read:

~~The Bureau of Labor Standards~~ Department of Labor, Bureau of Employment Services shall assist the director in determining which classifications are apprenticeable and in encouraging and assisting state agencies to utilize the benefits of registered apprenticeship programs or other training programs.

**Sec. 3. 5 MRSA §7072, 3rd ¶**, as enacted by PL 1985, c. 785, Pt. B, §38 and amended by PL 1997, c. 530, Pt. A, §34, is repealed.

**Sec. 4. 5 MRSA §7072, sub-§1**, as enacted by PL 1985, c. 785, Pt. B, §38, is repealed.

**Sec. 5. 5 MRSA §7072, sub-§2**, as amended by PL 1993, c. 630, Pt. B, §3, is repealed.

**Sec. 6. 5 MRSA §7072, sub-§3, ¶B**, as enacted by PL 1985, c. 785, Pt. B, §38, is repealed.

**Sec. 7. 5 MRSA §12004-G, sub-§25**, as amended by PL 1989, c. 483, Pt. A, §24 and c. 503, Pt. A, §17, is repealed.

**Sec. 8. 5 MRSA §12004-I, sub-§54-D** is enacted to read:

**54-D.**

<u>Labor</u>	<u>Maine</u>	<u>Expenses</u>	<u>26 MRSA</u>
	<u>Apprenticeship</u>	<u>Only</u>	<u>§3209</u>
	<u>Council</u>		

**Sec. 9. 26 MRSA §2006, sub-§5-A**, as enacted by PL 1997, c. 683, Pt. D, §9 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by c. 545, §5, is repealed.

**Sec. 10. 26 MRSA §2006, sub-§7, ¶A**, as amended by PL 1999, c. 6, §1, is further amended to read:

A. The council shall create 4 3 standing committees of up to 12 members. Each standing committee may include up to 8 noncouncil members appointed by the council chair and drawn from the same constituency groups as the council's membership. The standing committees shall make recommendations to the full council. The 4 3 standing committees are as follows:

- (1) ~~Apprenticeship, with its membership specified in subsection 5 A, paragraph B;~~
- (2) School-to-work;
- (3) Employment of people with disabilities; and
- (4) Women's employment issues.

**Sec. 11. 26 MRSA §2172, sub-§4**, as amended by PL 2003, c. 114, §21, is repealed.

**Sec. 12. 26 MRSA §2172-A, sub-§2**, as amended by PL 2003, c. 114, §23, is further amended to read:

**2. Referral.** When an individual's employability development plan has been developed, the ~~Department of Labor~~ Maine Workforce Investment System service provider shall:

- A. Determine whether the individual's employment goal includes an apprenticeable occupation ~~by reference to a list of apprenticeable occupations provided by the State Apprenticeship and Training Council as defined in section 3201, subsection 2; and~~
- B. ~~If the occupation appears on the list of apprenticeable occupations under paragraph A, contact the State Apprenticeship and Training Council for assistance in establishing a registered apprenticeship program as part of or following Maine Workforce Investment System training;~~
- C. ~~Ensure that the State Apprenticeship and Training Council provides to the Commissioner of Labor a semiannual and annual list of the number of Maine Workforce Investment System referrals received and the number of registered apprenticeship positions established from these referrals; and~~
- D. ~~If a registered apprenticeship program is developed under this subsection, provide~~ Provide the trainee with information on educational and training opportunities that may be of assistance for indenturing in the registered apprenticeship program.

**Sec. 13. 26 MRSA c. 37** is enacted to read:

### CHAPTER 37

#### REGISTERED APPRENTICESHIP

##### §3201. Definitions

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

**1. Apprentice.** "Apprentice" means a person who is at least 16 years of age, except when a higher minimum age standard of 18 years of age is otherwise fixed by law or a sponsor, who is employed to learn an

apprenticeable occupation that is approved by the department and who is registered with the Maine Apprenticeship Program.

**2. Apprenticeable occupation.** "Apprenticeable occupation" means an occupation that is specified by industry and that:

- A. Involves skills that are customarily learned in a practical way through a structured, systematic program of on-the-job supervised learning;
- B. Is clearly identified and commonly recognized throughout an industry;
- C. Involves manual, mechanical or technical skills and knowledge that, in accordance with the industry standard for the occupation, require the completion of at least 2,000 hours of on-the-job learning to attain; and
- D. Requires related instruction.

**3. Apprenticeship agreement.** "Apprenticeship agreement" means a written agreement between an apprentice and a sponsor or employer that contains the terms and conditions of the employment and training of the apprentice.

**4. Apprenticeship committee.** "Apprenticeship committee" means those persons designated by a sponsor to administer an apprenticeship program. An apprenticeship committee may be either a joint committee or a nonjoint committee, as follows.

- A. A joint committee is composed of an equal number of representatives of the employer and representatives of the employees who are represented by a bona fide collective bargaining agent.
- B. A nonjoint committee is composed of employer representatives and may include employees but does not have a bona fide collective bargaining agent as a participant.

**5. Apprenticeship program.** "Apprenticeship program" means a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, including such matters as the requirement for an apprenticeship agreement, a schedule of work experience outlining the skills to be learned on the job, a schedule of related instruction courses necessary to supplement the on-the-job learning and a schedule of progressively increasing wages to be paid to an apprentice consistent with the skill proficiencies achieved and leading toward a journeyman wage rate.

**6. Competency.** "Competency" means the attainment of manual, mechanical or technical skills and knowledge, as specified by an occupational standard and demonstrated by an appropriate written and hands-on proficiency measurement.

**7. Completion rate.** "Completion rate" means the percentage of an apprenticeship cohort that receives a certificate of completion of apprenticeship within one year of the projected completion date. As used in this subsection, "apprenticeship cohort" means the group of apprentices registered to a specific apprenticeship program during a one-year time frame, except that "apprenticeship cohort" does not include the apprentices whose apprenticeship agreement has been cancelled during the probationary period as described in section 3205, subsection 8.

**8. Department.** "Department" means the Department of Labor.

**9. Electronic media.** "Electronic media" means media that use electronics or electromechanical energy for the end user to access content and includes, but is not limited to, electronic storage media, transmission media, the Internet, extranet, lease lines, dial-up lines, private networks and the physical movement of removable or transportable electronic media and interactive distance learning.

**10. Employer.** "Employer" means a person or organization employing an apprentice, whether or not the person or organization is a party to an apprenticeship agreement with the apprentice.

**11. Federal purposes.** "Federal purposes" includes any federal contract, grant, agreement or arrangement dealing with apprenticeship and any federal financial or other assistance, benefit, privilege, contribution, allowance, exemption, preference or right pertaining to apprenticeship.

**12. Interim credential.** "Interim credential" means a credential issued by the department to document attainment of certain benchmarks toward completion of an apprenticeship.

**13. Journeyman.** "Journeyman" means a worker who has attained a level of skills, abilities and competencies recognized within an industry as the skills, abilities and competencies required for an occupation. "Journeyman" includes a mentor, technician, specialist or other skilled worker who has documented sufficient skills and knowledge of an occupation, either through formal apprenticeship or through practical on-the-job experience and formal training, as determined by the sponsor.

**14. Maine Apprenticeship Council.** "Maine Apprenticeship Council" means the Maine Apprenticeship Council under section 3209.

**15. Maine Apprenticeship Program.** "Maine Apprenticeship Program" means the Maine Apprenticeship Program established in section 3202.

**16. Provisional registration.** "Provisional registration" means the one-year initial provisional registration of newly registered apprenticeship programs under section 3202, subsection 5.

**17. Quality assurance assessment.** "Quality assurance assessment" means a comprehensive review conducted by the department regarding all aspects of an apprenticeship program's performance, including but not limited to determining if apprentices are receiving on-the-job learning in all phases of the apprenticeable occupation, scheduled wage increases consistent with the standards of the program submitted under section 3203 and related instruction through appropriate curricula and delivery systems and determining if the apprenticeship program has provided to the registration agency notification of all new registrations, transfers, suspensions, cancellations and completions as required in this chapter.

**18. Registration.** "Registration" means registration with the Maine Apprenticeship Program under section 3202.

**19. Registration agency.** "Registration agency" means the state apprenticeship agency, which is responsible for registering apprenticeship programs and apprentices, providing technical assistance and conducting compliance and quality assurance assessments.

**20. Related instruction.** "Related instruction" means an organized and systematic form of instruction designed to provide an apprentice with the knowledge of the theoretical and technical subjects related to the apprentice's occupation and given in a classroom, through occupational or industrial courses or by correspondence courses of equivalent value, electronic media or other forms of self-study approved by the department.

**21. Sponsor.** "Sponsor" means a person, association, apprenticeship committee or organization operating an apprenticeship program and in whose name the apprenticeship program is or is to be registered or approved.

**22. State apprenticeship agency.** "State apprenticeship agency" means the department, which is the state government agency that has responsibility and accountability for apprenticeship in the State and is recognized by the United States Department of Labor, Office of Apprenticeship as an agency that has been properly constituted under state law and authorized by the Office of Apprenticeship to register and oversee apprenticeship programs and apprenticeship agreements for federal purposes.

**23. Technical assistance.** "Technical assistance" means guidance provided by the Bureau of Employment Services within the department in the development, revision, amendment or processing of a potential or current sponsor's standards of apprenticeship or apprenticeship agreements or advice or consultation provided by the bureau to a sponsor to further compliance with or remedy nonconformance to state and federal law, regulation or rule.

**24. Transfer.** "Transfer" means a shift of registration from one apprenticeship program to another or from one employer within a program to another employer within that same program, in accordance with an agreement between the apprentice and the affected sponsors.

**§3202. Maine Apprenticeship Program; eligibility and registration procedure**

The Maine Apprenticeship Program is established for the purposes of registration and oversight of apprenticeship programs in the State. The Maine Apprenticeship Program is administered by the department, which is the state apprenticeship agency and registration agency for the purposes of 29 Code of Federal Regulations, Parts 29 and 30.

**1. Registration; eligibility.** A sponsor may apply with the Maine Apprenticeship Program for review and approval of an apprenticeship program or apprenticeship agreement. To be eligible for registration, the apprenticeship program or apprenticeship agreement must meet the requirements of this chapter, must involve training in an apprenticeable occupation and must comply with state and federal law regarding equal employment opportunity in apprenticeship and training. An apprenticeship program is registered upon its acceptance and recording by the Maine Apprenticeship Program as meeting the basic standards and requirements for approval of such a program for federal purposes, as evidenced by a certificate of registration or other written indicia. An apprenticeship agreement is registered upon its acceptance and recording by the Maine Apprenticeship Program as evidence of an apprentice's participation in a particular registered apprenticeship program.

**2. Apprentices registered.** Except as provided under subsection 3, apprentices must be individually registered under a registered sponsor and in a registered apprenticeship program. Such individual registration may be effected by filing copies of each individual apprenticeship agreement with the Maine Apprenticeship Program.

**3. Probationary employment.** A sponsor shall submit the name of a person in a period of probationary employment under section 3203, subsection 1, paragraph H as an apprentice under a registered apprenticeship program within 45 days of employment to the Maine Apprenticeship Program for certification and to establish the apprentice in probationary status.

**4. Certificate.** If the Maine Apprenticeship Program approves an apprenticeship program, it shall register that apprenticeship program and issue a sponsor approval certificate.

**5. Review.** The Maine Apprenticeship Program shall review an application for registration of an apprenticeship program. An apprenticeship program that meets the standards for registration must be given pro-

visional registration for a period of one year. The Maine Apprenticeship Program shall review an apprenticeship program for quality and conformity with the requirements of this chapter at the end of the first year after registration. A program that conforms to the requirements may have its registration be made permanent or may continue to be provisionally registered through the first full training cycle. An apprenticeship program that is not in operation or does not conform to the requirements must be deregistered pursuant to section 3206.

The Maine Apprenticeship Program shall review a provisionally registered apprenticeship program for quality and conformity with the requirements of this chapter at the end of the first full training cycle. If the provisionally registered apprenticeship program receives a satisfactory review, the Maine Apprenticeship Program shall convert the provisional registration to permanent registration. Subsequent reviews must be conducted no less frequently than every 5 years. An apprenticeship program that is not in operation or does not conform to the requirements must be deregistered pursuant to section 3206.

**6. Change of program.** A sponsor may not make a change to a registered apprenticeship program unless the change is approved by the Maine Apprenticeship Program. To make a change to a registered apprenticeship program, a sponsor must submit a request to the Maine Apprenticeship Program. The Maine Apprenticeship Program shall approve or disapprove the requested change within 90 days from receipt of the request. If approved, the change must be recorded and acknowledged by the Maine Apprenticeship Program within 90 days of approval. If not approved, the Maine Apprenticeship Program shall notify the sponsor of the disapproval and the reason for the disapproval and provide the appropriate technical assistance.

**7. Union participation.** An apprenticeship program may be proposed for registration by an employer or group of employers or an employers association. An employer or employers association with the respect to which there exists a standard or a collective bargaining agreement or other instrument that provides for participation by a union in any aspect of the operation of the substantive matters of an apprenticeship program must, if such participation is exercised, include in the apprenticeship program proposed for registration written acknowledgment of union agreement or no objection to the registration. If such participation is not so provided for or practiced, the employer or employers association must simultaneously furnish to an existing union, if any, that is the collective bargaining agent of the employees to be trained a copy of its application for registration and of the apprenticeship program. The registration agency shall provide for receipt of union comments within 45 days before final action on the application for registration.

**§3203. Standards of apprenticeship**

An apprenticeship program must conform to the following standards to be eligible for approval and registration by the Maine Apprenticeship Program.

**1. Standards.** An apprenticeship program must have organized, written standards containing the terms and conditions of employment, training and supervision of one or more apprentices in an apprenticeable occupation and subscribed to by a sponsor who has undertaken to carry out the program. The standards must contain:

A. A description of the employment and training of the apprentice in a skilled occupation;

B. A description of how successful apprenticeship will be measured, which for an individual apprentice may be a time-based approach, a competency-based approach or a hybrid approach. An apprenticeship program must require a minimum of 2,000 hours of on-the-job learning.

(1) The time-based approach measures skill acquisition through the individual apprentice's completion of 2,000 to 10,000 hours of on-the-job learning as described in a work process schedule.

(2) The competency-based approach measures skill acquisition through the individual apprentice's successful demonstration of acquired skills and knowledge, as demonstrated by an appropriate written and hands-on proficiency measurement. An apprenticeship program using the competency-based approach must still require apprentices to complete an on-the-job learning component of registered apprenticeship. The apprenticeship program's standards must address how on-the-job learning will be integrated into the apprenticeship program, describe competencies and identify an appropriate means of testing and evaluation for such competencies.

(3) The hybrid approach measures the individual apprentice's skill acquisition through a combination of a specified minimum number of hours of on-the-job learning and the successful demonstration of competency as described in a work process schedule.

The determination of the appropriate approach for the apprenticeship program's standards is made by the sponsor, subject to approval by the Maine Apprenticeship Program of the determination as appropriate to the apprenticeable occupation for which the apprenticeship program is registered;

C. An outline of the work processes in which the apprentice will receive supervised work experience and training on the job and the allocation of

the approximate amount of time to be spent in each major process;

D. Provision for at least 144 hours of related instruction for each year of apprenticeship. An apprenticeship instructor must:

(1) Meet the Department of Education's requirements for a career and technical education instructor or be a subject matter expert, such as a journeyman, who is recognized within an industry as having expertise in a specific occupation; and

(2) Have training in teaching techniques and adult learning styles. This training may occur before or after the apprenticeship instructor has started to provide the related instruction;

E. A schedule of progressively increasing wages to be paid to an apprentice consistent with the skill acquired. The entry wage may not be less than the minimum wage prescribed by the federal Fair Labor Standards Act of 1938 for student pre-apprentices and not less than \$10 per hour or 50% of the journeyman rate, whichever is highest, for adult registered apprentices, unless a higher wage is required by other applicable federal law or regulation or state law or rule or by collective bargaining agreement. For purposes of this paragraph, "journeyman rate" is the rate of pay established by the sponsor for an apprentice who has met all of the skill, knowledge and competency requirements for that occupation;

F. Provision for periodic review and evaluation of the apprentice's performance on the job and in related instruction and for the maintenance of appropriate progress records;

G. Provision for a numeric ratio of apprentices to journeymen consistent with proper supervision, training, safety and continuity of employment and with applicable provisions in collective bargaining agreements, except when a minimum ratio is expressly provided for by the collective bargaining agreements. The ratio language must be specific and clear as to its application to the job site, workforce, department or plant;

H. Provision for a probationary period reasonable in relation to the full apprenticeship term, with full credit given for such a period toward completion of apprenticeship. The probationary period may not exceed 25% of the length of the apprenticeship program or one year, whichever is shorter;

I. Provision for adequate and safe equipment and facilities for training and supervision, safety training for apprentices on the job and in related instruction and qualified training personnel and adequate supervision on the job;

J. The minimum qualifications required by the sponsor for persons entering the apprenticeship program, with an eligible starting age of not less than 16 years of age, or 18 years of age if required by federal occupational safety and health laws or regulations;

K. Provision for the placement of an apprentice under an apprenticeship agreement that meets the requirements of this chapter and 29 Code of Federal Regulations, Section 29.7 and is approved by the Maine Apprenticeship Program and directly or by reference incorporates the standards of the apprenticeship program as part of the agreement;

L. Provision for the granting of advanced standing or credit for demonstrated competency, acquired experience, training or skills, which must be applied to all applicants equally, with commensurate wages for standing or credit so granted;

M. Provision for transfer of an apprentice between apprenticeship programs and within an apprenticeship program in accordance with section 3204, subsection 3;

N. Provision for recognition for successful completion of apprenticeship evidenced by an appropriate certificate issued by the Maine Apprenticeship Program;

O. With respect to an apprenticeship program that uses the competency-based or hybrid approach under paragraph B and that includes the issuance of interim credentials, program standards that clearly identify the interim credentials, demonstrate how the credentials link to the components of the apprenticeable occupation and establish the process for assessing an individual apprentice's demonstration of competency associated with the particular interim credential. Interim credentials may be issued only for recognized components of an apprenticeable occupation;

P. Provision for the registration and deregistration of the apprenticeship program and for the prompt submission of any program standard modification or amendment to the Maine Apprenticeship Program for approval;

Q. Provision for registration of and amendments to apprenticeship agreements and for notice to the Maine Apprenticeship Program in accordance with section 3204, subsection 4;

R. Provision for authority for the cancellation of an apprenticeship agreement during the probationary period under section 3205, subsection 8 by either party without stated cause;

S. Provision for compliance with the equal employment opportunity requirements of this chapter and be in accordance with all aspects of 29 Code of Federal Regulations, Section 30;

T. The name, address, telephone number and e-mail address, if appropriate, for the appropriate individual with authority under the apprenticeship program to receive, process and make disposition of complaints; and

U. Provision for recording and maintenance of all records concerning apprenticeship as may be required by the Maine Apprenticeship Program and other applicable law.

#### **§3204. Apprenticeship program performance standards**

**1. Minimum number of apprentices.** A registered apprenticeship program must have at least one registered apprentice, except for the following specified periods of time if the periods do not exceed one year:

A. Between the date when the apprenticeship program is registered and the date of registration for its first apprentice; and

B. Between the date that the apprenticeship program graduates an apprentice and the date of registration for the next apprentice in the program.

**2. Evaluation.** The Maine Apprenticeship Program shall evaluate the performance of a registered apprenticeship program. The tools and factors to be used must include, but are not limited to:

A. Quality assurance assessments;

B. Equal employment opportunity compliance reviews; and

C. Completion rates. The cancellation of an apprenticeship agreement during the probationary period under section 3205, subsection 8 does not have an adverse impact on an apprenticeship program's completion rate.

**3. Transfers.** A transfer of an apprentice between apprenticeship programs or within an apprenticeship program must be based on agreement between the apprentice and the affected sponsors and:

A. The sponsor must provide the transferring apprentice with a transcript of related instruction and on-the-job learning;

B. The transfer may be only to an apprenticeship program for the same occupation as the one from which the apprentice is being transferred; and

C. If the transfer occurs between sponsors, a new apprenticeship agreement must be executed.

**4. Notice.** A sponsor shall notify the Maine Apprenticeship Program of a person who has completed an apprenticeship program, of a transfer under subsection 3 or of a suspension or cancellation of an apprenticeship agreement under section 3205 within 45 days

of the completion, transfer, suspension or cancellation. Notice of a transfer, suspension or cancellation must include the reasons for the transfer, suspension or cancellation.

### **§3205. Apprenticeship agreement**

An apprenticeship agreement must contain, explicitly or by reference:

**1. Names.** The names and signatures of the contracting parties, including the apprentice and the sponsor or employer, and the name and signature of a parent or guardian of the apprentice if the apprentice is a minor;

**2. Apprentice.** The gender, race and ethnicity of the apprentice in such detail as required to conform to the federal Equal Employment Opportunity Act, 42 United States Code, Chapter 21, subchapter VI and for affirmative action compliance in apprenticeship programs, including records of the following races and ethnic groups: African-American or black; Native American, including Alaskan Native; Asian, including Pacific Islander; Hispanic, including persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish origin or culture regardless of race; and white other than Hispanic, as well as the date of birth, contact information and, on a voluntary basis, the social security number of the apprentice;

**3. Contact information.** Contact information of the sponsor and registration agency;

**4. Occupation; term.** A statement of the occupation in which the apprentice is to be trained and the beginning date and term of apprenticeship;

**5. Hours.** A statement setting forth:

A. For an apprenticeship program using the time-based approach under section 3203, subsection 1, paragraph B, the number of hours to be spent by the apprentice in on-the-job learning; for an apprenticeship program using the competency-based approach under section 3203, subsection 1, paragraph B, a description of the skill sets to be attained to complete the program, including the on-the-job learning component; and, for an apprenticeship program using the hybrid approach under section 3203, subsection 1, paragraph B, the minimum number of hours to be spent by the apprentice in on-the-job learning and a description of the skill sets to be attained to complete the program; and

B. The number of hours, which must be at least 144 hours per year, to be spent by the apprentice in related instruction;

**6. Schedule.** A statement setting forth a schedule of the work processes in the occupation or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process;

**7. Wages.** A statement of the graduated scale of wages to be paid to the apprentice and whether or not the required related instruction is compensated;

**8. Probationary period.** Statements providing:

A. For a specific period of probation during which the apprenticeship agreement may be cancelled by either party to the agreement upon written notice to the registration agency, without adverse impact on the sponsor; and

B. That, after the probationary period in paragraph A, the apprenticeship agreement may be:

(1) Cancelled at the request of the apprentice; or

(2) Suspended or cancelled by the sponsor, for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action and with written notice to the apprentice and to the department of the final action taken;

**9. Standards.** A reference incorporating as part of the agreement the standards of the apprenticeship program as they exist on the date of the agreement and as they may be amended during the period of the agreement;

**10. Equal opportunity.** A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination because of race, color, religion, national origin or gender; and

**11. Dispute resolution authority.** The name, address, telephone number and e-mail address, if appropriate, of the appropriate authority designated under the apprenticeship program to receive, process and make disposition of controversies or differences arising out of the apprenticeship agreement when the controversies or differences cannot be adjusted between the sponsor and apprentice or resolved in accordance with established procedure or applicable collective bargaining provisions.

### **§3206. Deregistration of a registered apprenticeship program**

As set out in this section, deregistration of an apprenticeship program may be effected upon the voluntary action of the sponsor or by the Maine Apprenticeship Program upon reasonable cause.

**1. Deregistration at the request of the sponsor.** Upon receipt of a request for deregistration from a sponsor, the Maine Apprenticeship Program may deregister an apprenticeship program by written acknowledgment of the request stating:

A. That the apprenticeship program is deregistered at the sponsor's request and the effective date of the deregistration; and

B. That, within 15 days of the date of the acknowledgment, the sponsor must notify all apprentices of the deregistration and the effective date; that the deregistration automatically deprives the apprentices of individual registration; that the deregistration removes the apprentices from coverage for federal purposes; and that all apprentices are referred to the Maine Apprenticeship Program for information about potential transfer to other registered apprenticeship programs.

**2. Deregistration by the Maine Apprenticeship Program upon reasonable cause.** The Maine Apprenticeship Program may undertake deregistration proceedings with respect to an apprenticeship program if the apprenticeship program is not conducted, operated or administered in accordance with the apprenticeship program's standards under section 3203 or with the requirements of this chapter, including not but limited to failure to provide on-the-job learning; failure to pay an apprentice a progressively increasing wage consistent with skills acquired; and persistent and significant failure to perform successfully. For purposes of this subsection, persistent and significant failure to perform successfully occurs when a sponsor consistently fails to register at least one apprentice, shows a pattern of poor quality assurance assessment results over a period of several years, demonstrates an ongoing pattern of very low completion rates over a period of several years or shows no indication of improvement in the areas identified by the Maine Apprenticeship Program during a review process as requiring corrective action. The Maine Apprenticeship Program shall follow procedures regarding agency-initiated deregistration as outlined in 29 Code of Federal Regulations, Section 29.8.

**3. Consequences of deregistration.** An apprentice who is enrolled in an apprenticeship program that is deregistered pursuant to subsection 1 or 2 is denied individual registration under the Maine Apprenticeship Program and is removed from coverage for federal purposes.

### **§3207. Limitations**

**1. Invalidate.** Nothing in this chapter or in an apprenticeship agreement may be construed to invalidate:

A. An apprenticeship provision in a collective bargaining agreement between employers and employees establishing more stringent apprenticeship standards; or

B. A special provision for veterans, minorities or women in the standards, apprentice qualifications or operation of an apprenticeship program or in the apprenticeship agreement that is not otherwise prohibited by law, executive order or authorized regulation or rule.

### **§3208. Complaints**

**1. Review.** A controversy or difference arising under an apprenticeship agreement that cannot be resolved between the sponsor and the apprentice and that is not covered by a collective bargaining agreement may be submitted by an apprentice, or the apprentice's authorized representative, to the Maine Apprenticeship Program for review. Matters covered by a collective bargaining agreement are not subject to such review.

**2. Complaint procedure.** A complaint submitted under subsection 1 by an apprentice or the apprentice's authorized representative to the Maine Apprenticeship Program must be in writing and signed by the complainant or authorized representative and must be submitted within 60 days of the final decision of the sponsor. The complaint must set forth the specific matter giving rise to the complaint, together with relevant facts and circumstances. Copies of pertinent documents and correspondence must accompany the complaint.

**3. Decision; resolution.** The Maine Apprenticeship Program, as appropriate, shall render an opinion on a complaint under this section within 90 days after receipt of the complaint, based upon such investigation of the matters submitted as the Maine Apprenticeship Program finds necessary and the record before it. During the 90-day period, the Maine Apprenticeship Program shall make reasonable efforts to effect a satisfactory resolution between the parties involved. If the complaint is so resolved, the Maine Apprenticeship Program shall notify the parties that the case is closed. If an opinion is rendered, the Maine Apprenticeship Program shall send copies of the opinion to all interested parties. The decision of the Maine Apprenticeship Program constitutes final agency action and is subject to court review except as otherwise provided in this section.

**4. Other remedies.** This section does not preclude an apprentice from pursuing any other remedy authorized under another federal, state or local law.

**5. Application.** This section does not apply to a complaint concerning discrimination or other equal opportunity matters. All such complaints must be submitted, processed and resolved in accordance with applicable state or federal law.

### **§3209. Maine Apprenticeship Council**

**1. Establishment.** The Maine Apprenticeship Council, as established in Title 5, section 12004-I, subsection 54-D and referred to in this section as "the council," consists of 16 members appointed in accordance with this subsection. Members of the council must be familiar with apprenticeable occupations.

A. Twelve members of the council are appointed by the Governor as follows:

(1) Four members must be representatives of employees and be bona fide members of a recognized major labor organization;

(2) Four members must be representatives of employers and be bona fide employers or authorized representatives of employers; and

(3) Four members must be representatives of the public and may not be industrial employers or employees or be directly concerned with any particular industrial employer or employee. At least 2 of these members must represent the interests of women and minorities and recipients of benefits under the Temporary Assistance for Needy Families program under Title 22, chapter 1053-B who are in registered apprenticeship.

B. Four nonvoting members of the council are appointed by their respective agencies as follows:

(1) One representative of the Maine Jobs Council established in section 2006, appointed by the chair of the Maine Jobs Council;

(2) One representative of the Maine Community College System, appointed by the President of the Maine Community College System;

(3) One representative of the Department of Education, appointed by the Commissioner of Education; and

(4) One representative of the Department of Economic and Community Development, appointed by the Commissioner of Economic and Community Development.

2. Term; vacancy. A member of the council serves a 4-year term. A member serves until the member's successor is appointed and qualified. A vacancy on the council must be filled for the remainder of the unexpired term in the same manner as the original appointment.

3. Chair. The council shall appoint one of its members as chair of the council.

4. Duties. The council shall meet on a quarterly basis and shall assist and advise the department in its duties administering the Maine Apprenticeship Program with respect to:

A. Developing, approving and registering new apprenticeship programs;

B. Identifying and registering new sponsors;

C. Representing the Maine Apprenticeship Program to the Maine Jobs Council established in section 2006;

D. Reviewing and recommending additions or changes to Maine Apprenticeship Program rules, policies and processes;

E. Ensuring availability of related instruction for apprentices;

F. Ensuring registered apprenticeship programs meet the requirements of this chapter;

G. Ensuring appropriate records of registered apprenticeship programs, registered apprentices and sponsors are created and maintained;

H. Reviewing complaints;

I. Developing a biennial plan and evaluation tools and processes to be used to review apprenticeship program outcomes; and

J. Ensuring an annual report is provided by March 1st of each year to the Governor, the joint standing committee of the Legislature having jurisdiction over labor and economic development matters and the joint standing committee of the Legislature having jurisdiction over education and cultural affairs that includes the following:

(1) The name and location of each sponsor;

(2) The number of apprentices registered into and completing apprenticeship; and

(3) The return on investment.

#### **§3210. State office**

The department shall administer the Maine Apprenticeship Program through the Bureau of Employment Services within the department, referred to in this section as "the bureau." The bureau is the state office for the purposes of 29 Code of Federal Regulations, Parts 29 and 30.

1. Director. The bureau shall employ a director of apprenticeship, who supervises the execution of apprenticeship agreements and the maintenance of standards.

2. Records; instruction. The bureau shall keep a record of apprenticeship agreements and apprenticeship programs and ensure that all aspects of related instruction are delivered and coordinated in a timely manner.

#### **§3211. Additional powers and duties**

1. Investment system. The Maine Apprenticeship Program shall partner with the Maine Workforce Investment System under chapter 33 to use registered apprenticeship as a key talent development approach that serves both workforce investment system participants and industry in the State.

2. Economic development. The Maine Apprenticeship Program shall cooperate with the Department

of Economic and Community Development in matters relating to workforce and economic development.

**3. Outreach.** The Maine Apprenticeship Program shall cooperate, consult and coordinate with workforce development entities that serve individuals seeking employment.

**4. Technical assistance.** The Maine Apprenticeship Program may provide sponsors with technical assistance.

**5. Federal regulations.** The Maine Apprenticeship Program shall ensure that all apprenticeship programs established under this chapter conform to 29 Code of Federal Regulations, Parts 29 and 30 and any applicable regulations of the United States Department of Labor, Office of Apprenticeship.

**6. Education.** The Maine Apprenticeship Program shall cooperate with the Department of Education, local school authorities such as adult education and career and technical education centers and other groups in organizing and establishing related instruction for apprentices employed under approved apprenticeship agreements.

A. A public educational institution or sponsor may provide related instruction according to established policies. As funds permit, the Department of Labor shall underwrite 50% of tuition costs for apprentices in good standing at public educational institutions and provide training cost assistance to sponsor groups in accordance with sponsor policies. To ensure that adequate funds are available for related instruction, the Maine Apprenticeship Program shall establish a biennial plan, including projected apprenticeship enrollments and a subsequent budget request.

B. The Maine Apprenticeship Program shall assist the Department of Education, the State's community colleges, local school authorities such as adult education and career and technical education centers and other groups in promoting, developing and establishing student preapprenticeship programs and adult preapprenticeship programs if the community colleges, local school authorities and other groups wish to do so. A participant who successfully completes a preapprenticeship program meets the qualifying standards of a registered apprenticeship program.

### **§3212. Rulemaking**

The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement the provisions of this chapter.

**Sec. 14.** **32 MRSA §1101, sub-§1**, as amended by PL 2009, c. 415, Pt. A, §17, is further amended to read:

**1. Apprentice electrician.** "Apprentice electrician" means an apprentice, as defined in Title 26, ~~section 2006, subsection 5-A, paragraph A, subparagraph (4)~~ section 3201, subsection 1, who is engaged in a written agreement to work at and learn the trade of an electrician under the direct supervision of a master, journeyman or limited electrician.

**Sec. 15.** **32 MRSA §1202, sub-§1, ¶A**, as repealed and replaced by PL 2007, c. 695, Pt. A, §36, is amended to read:

A. For a journeyman electrician's license, a person must:

(1) Complete at least 8,000 hours of service as an apprentice or helper electrician or at least 8,000 hours of experience in electrical installations, as defined in section 1101, and satisfactorily complete a program of study comprising 576 hours as approved by the Electricians' Examining Board or from an accredited institution. The 576 hours shall consist of 225 hours of required study, including an approved course of not less than 45 hours in the current National Electrical Code; and 351 hours of elective study, comprised of all trade-related electives or 225 hours of trade-related courses and 135 hours of degree-related courses;

(2) Be a graduate of an accredited regional applied technology high school 2-year electrical program, have worked for 8,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board;

(3) Be a graduate of an accredited community college electrical program or a vocational-electrical program of the Department of Corrections, have worked for 4,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may sit for the journeyman's examination upon graduation if application is made within one year of graduation; or

(4) Be an electrical apprentice registered with the ~~State Apprenticeship and Training Council~~ Department of Labor and have completed 576 hours of related instruction, as defined in this paragraph, prescribed in their apprenticeship program, the 8,000-hour ap-

proved program and a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may sit for the journeyman's examination after completion of the 576 hours of instruction if application is made within one year of the completion of the instruction.

**Sec. 16. 34-A MRSA §1403, sub-§9, ¶F**, as amended by PL 1987, c. 589, is further amended to read:

F. The commissioner shall, in consultation with the ~~State Apprenticeship and Training Council~~ Maine Apprenticeship Program established in Title 26, section 3202, develop policies concerning job displacement and safety and policies to develop opportunities in the prison industries programs.

See title page for effective date.

**CHAPTER 492**

**S.P. 285 - L.D. 897**

**An Act To Amend the Application Process for the Progressive Treatment Program**

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

**Sec. 1. 34-B MRSA §3873-A, sub-§§1 to 3**, as enacted by PL 2009, c. 651, §29, are amended to read:

**1. Application.** The superintendent or chief administrative officer of a psychiatric hospital, the commissioner ~~or~~ the director of an ACT team, ~~except as limited by subsection 10,~~ a medical practitioner, a law enforcement officer or the legal guardian of the patient who is the subject of the application may obtain an order from the District Court to admit a patient to a progressive treatment program upon the following conditions:

- A. The patient suffers from a severe and persistent mental illness;
- B. The patient poses a likelihood of serious harm;
- C. The patient has the benefit of a suitable individualized treatment plan;
- D. ~~Community resources~~ Licensed and qualified community providers are available to support the treatment plan;
- E. The patient is unlikely to follow the treatment plan voluntarily;

F. Court-ordered compliance will help to protect the patient from interruptions in treatment, relapses or deterioration of mental health; and

G. Compliance will enable the patient to survive more safely in a community setting without posing a likelihood of serious harm.

**2. Contents of the application.** The application must be accompanied by a certificate of a medical practitioner providing the facts and opinions necessary to support the application. The certificate must indicate that the examiner's opinions are based on one or more recent examinations of the patient or upon the examiner's recent personal treatment of the patient. Opinions of the examiner may be based on personal observation ~~or on~~ and must include a consideration of history and information from other sources considered reliable by the examiner when such sources are available. The application must include a proposed individualized treatment plan and identify one or more licensed and qualified community providers willing to support the plan.

The applicant must also provide a written statement certifying that a copy of the application and the accompanying documents have been given personally to the patient and that the patient and the patient's guardian or next of kin, if any, have been notified of:

- A. The patient's right to retain an attorney or to have an attorney appointed;
- B. The patient's right to select or to have the patient's attorney select an independent examiner; and
- C. How to contact the District Court.

**3. Notice of hearing.** Upon receipt by the District Court of the application or any motion relating to the application, the court shall cause written notice of hearing to be mailed within 2 days to the applicant, to the patient and to the following persons if known: to anyone serving as the patient's guardian and to the patient's spouse, a parent or an adult child, if any. If no immediate relatives are known or can be located, notice must be mailed to a person identified as the patient's next of kin or a friend, if any are known. If the applicant has reason to believe that notice to any individual would pose risk of harm to the patient, notice to that individual may not be given. A docket entry is sufficient evidence that notice under this subsection has been given. If the patient is not hospitalized, the applicant shall serve the notice of hearing upon the patient personally and provide proof of service to the court.

**Sec. 2. 34-B MRSA §3873-A, sub-§10**, as enacted by PL 2009, c. 651, §29, is repealed.

See title page for effective date.

**CHAPTER 493**  
**H.P. 1226 - L.D. 1636**

**An Act To Extend Certain  
Insurance Protection to  
Emergency Responders**

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

**Sec. 1. 24-A MRSA §2174-B**, as amended by PL 1997, c. 114, §1, is further amended to read:

**§2174-B. Law enforcement officers' and emergency responders' insurance rates**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Law enforcement officer" means any person employed by a governmental entity who by virtue of that employment is vested by law with a duty to investigate and prosecute violators of the laws of this State and to arrest the offenders of the laws.

B. "Emergency responder" means:

(1) A municipal firefighter, as defined in Title 30-A, section 3151, subsection 2; or a volunteer firefighter, as defined in Title 30-A, section 3151, subsection 4, who is operating a municipal vehicle; or

(2) An operator of a vehicle under Title 29-A, section 2054 that is licensed or authorized pursuant to Title 32, chapter 2-B as an ambulance or emergency medical services vehicle, when that operator is acting with the approval of an ambulance service or nontransporting service licensed pursuant to Title 32, chapter 2-B.

**2. Law enforcement officers; emergency responders.** ~~No~~ An insurer may not increase the premium for a personal insurance policy providing motor vehicle liability or collision insurance to a law enforcement officer or an emergency responder on the basis of one or more accidents involving a motor vehicle operated by the officer or emergency responder if:

A. The accident occurred while the officer or emergency responder was operating a motor vehicle in the course and scope of employment; and

B. There is a policy of insurance other than the personal policy providing motor vehicle liability or collision coverage for the accident or accidents.

**3. Governmental entity.** This section in no way restricts the premium an insurer may charge a governmental entity for an insurance policy providing motor vehicle liability or collision insurance covering law enforcement officers or emergency responders.

**4. Penalty.** An insurer who violates this section commits a civil violation pursuant to section 12-A.

See title page for effective date.

**CHAPTER 494**  
**S.P. 578 - L.D. 1679**

**An Act To Conform Maine's  
Prescription Drug Privacy  
Laws with the United States  
Constitution**

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

**Sec. 1. 22 MRSA §1711-E, sub-§1-A**, as enacted by PL 2007, c. 460, §1, is repealed.

**Sec. 2. 22 MRSA §1711-E, sub-§1-B**, as amended by PL 2011, c. 461, §1, is repealed.

**Sec. 3. 22 MRSA §1711-E, sub-§2**, as amended by PL 2007, c. 460, §1, is further amended to read:

**2. Confidentiality of prescription drug information that identifies the individual.** A carrier or prescription drug information intermediary may not license, use, sell, transfer or exchange for value, for any marketing purpose, prescription drug information that identifies directly or indirectly the individual who is prescribed the prescription drug.

**Sec. 4. 22 MRSA §1711-E, sub-§2-A**, as enacted by PL 2007, c. 460, §1, is repealed.

**Sec. 5. 22 MRSA §1711-E, sub-§3**, as amended by PL 2007, c. 460, §1, is further amended to read:

**3. Enforcement.** A violation of subsection 2 ~~or 2-A~~ is a violation of the Maine Unfair Trade Practices Act.

**Sec. 6. 22 MRSA §1711-E, sub-§4**, as enacted by PL 2007, c. 460, §1, is repealed.

**Sec. 7. 22 MRSA §8704, sub-§4**, as amended by PL 2007, c. 460, §2, is further amended to read:

**4. Rulemaking.** The board shall adopt rules necessary for the proper administration and enforcement of the requirements of this chapter ~~and to carry out the duties of the organization under section 1711-E, subsection 4 and section 8713~~. All rules must be adopted in accordance with Title 5, chapter 375 and unless otherwise provided are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 8. 22 MRSA §8704, sub-§7**, as amended by PL 2007, c. 460, §3, is further amended to read:

**7. Annual report.** The board shall prepare and submit an annual report on the operation of the organization and the Maine Health Data Processing Center as authorized in Title 10, section 681, including any activity contracted for by the organization or contracted services provided by the center, with resulting net earnings, to the Governor and the joint standing committee of the Legislature having jurisdiction over health and human services matters no later than February 1st of each year. The report must include an annual accounting of all revenue received and expenditures incurred in the previous year and all revenue and expenditures planned for the next year. The report must include a list of persons or entities that requested data from the organization in the preceding year with a brief summary of the stated purpose of the request.

~~As part of its annual report, the organization shall report on filings for confidentiality protection under section 1711 E, subsection 4, the disclosure of the names of prescribers who filed for confidentiality protection, funding through the assessment under section 1711 E, subsection 4, paragraph C and recommendations for legislation to improve operation of section 1711 E, subsection 4.~~

**Sec. 9. 22 MRSA §8713**, as enacted by PL 2007, c. 460, §4, is repealed.

See title page for effective date.

**CHAPTER 495**

**S.P. 535 - L.D. 1625**

**An Act To Amend the Organization of the Quality Assurance Review Committee**

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

**Sec. 1. 22 MRSA §5107-I, first ¶**, as enacted by PL 2001, c. 362, §1, is amended to read:

~~An agency that contracts to provide home care coordination for the~~ The department shall establish a quality assurance review committee, referred to in this section as the "committee," to review the provision of home care coordination services for long-term services and supports for elders and adults with disabilities. The committee membership must include consumers of home care services; representatives of consumers; consumer advocates, including the long-term care ombudsman program; health care and service providers; representatives from each area agency on aging; and staff of the each agency that contracts to provide provides home care coordination services. The joint standing committee of the Legislature having jurisdiction over health and human services matters may make

recommendations to the ~~contracting agency department~~ regarding committee membership.

**Sec. 2. 22 MRSA §5107-I, sub-§4**, as enacted by PL 2001, c. 362, §1, is amended to read:

**4. Annual report.** By January 1st each year, the committee shall report to ~~the department, the Long-term Care Implementation Committee established pursuant to Public Law 1999, chapter 731, Part BBBB, section 15 and~~ the joint standing committee of the Legislature having jurisdiction over health and human services matters concerning the committee's work during the year, any specific findings or recommendations regarding the duties imposed in subsection 2 and the actions taken to resolve problems.

See title page for effective date.

**CHAPTER 496**

**H.P. 1217 - L.D. 1608**

**An Act To Clarify the Laws Governing Pharmacy Interns**

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

**Sec. 1. 32 MRSA §13702-A, sub-§24-A** is enacted to read:

**24-A. Pharmacy intern.** "Pharmacy intern" means a person who:

A. Is either enrolled in or a graduate of a school or college of pharmacy; and

B. Is licensed with the board and is authorized to engage in the practice of pharmacy while under the direct supervision of a licensed pharmacist.

**Sec. 2. 32 MRSA §13721, sub-§1, ¶G**, as enacted by PL 1987, c. 710, §5, is amended to read:

G. The licensing of pharmacy interns and adoption of rules of governing the training, qualification and employment of pharmacy interns and pharmacy students; and

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Administrative Services - Professional and Financial Regulation 0094**

Initiative: Provides a one-time allocation in fiscal year 2012-13 for the licensing system modification costs associated with the licensing of pharmacy interns by the Maine Board of Pharmacy.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$2,500
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$2,500

**Licensing and Enforcement 0352**

Initiative: Provides a one-time allocation in fiscal year 2012-13 for the rule-making costs associated with the licensing of pharmacy interns by the Maine Board of Pharmacy.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$2,500
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$2,500

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF DEPARTMENT TOTALS**

	<b>2011-12</b>	<b>2012-13</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$5,000</b>
	<hr/>	<hr/>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$5,000</b>

See title page for effective date.

**CHAPTER 497**

**S.P. 562 - L.D. 1663**

**An Act To Correct Errors in Recently Enacted Laws Governing Agency Liquor Stores**

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

**Whereas,** Public Law 2011, chapter 460 was enacted into law in the First Regular Session of the 125th Legislature; and

**Whereas,** as a result of a clerical error, provisions in the enacted law do not reflect the language

contained in the legislative documents that were adopted by the Legislature; and

**Whereas,** it is necessary to immediately correct this error; 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. 28-A MRSA §1010-A, sub-§2, ¶A,** as enacted by PL 2011, c. 460, §2, is amended to read:

A. Full-time, one year, after payment of the initial agency liquor store license fee under section 453-B, ~~\$775~~ \$700. The license may be prorated; and

**Sec. 2. 28-A MRSA §1013,** as enacted by PL 2011, c. 460, §3, is repealed.

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)**

**Office of Substance Abuse 0679**

Initiative: Deallocates funds no longer required for underage drinking prevention programs.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$750)	(\$750)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$750)	(\$750)

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

Effective March 14, 2012.

**CHAPTER 498**

**H.P. 1321 - L.D. 1795**

**An Act Regarding the Oversight and Safety of Certain Commercial Vessels Operating in Maine Waters**

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

**Sec. 1. 38 MRSA §87-A, sub-§1, ¶D**, as amended by PL 2011, c. 14, §1, is repealed.

**Sec. 2. P&SL 1981, c. 98, §5, sub-§2, 2nd ¶** is amended to read:

~~This section shall does not apply to vessels under enrollment, fishing vessels or vessels powered by sail. This section shall not apply to vessels primarily engaged in the carriage of passengers for hire which operate on a published annual schedule and which are not in excess of 500 feet overall length and have a draft not in excess of 20 feet, so long as the master of any such vessel has navigated that specific vessel on the above described waters with the assistance of a pilot for a minimum of 15 round trips of ingress and egress to the above described waters. Provided, that a pilot shall pilot such vessel as described in this paragraph upon the above described waters at least one round trip during each calendar month that the vessel operates upon the above described waters and at such other times as may be required by the Department of Transportation to ensure port safety after hearing and notice.~~

See title page for effective date.

**CHAPTER 499**

**H.P. 1352 - L.D. 1832**

**An Act To Increase the Amount of Time an Employer May Employ an Employee without Being Charged for Unemployment Benefits**

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

**Sec. 1. 26 MRSA §1221, sub-§3, ¶C**, as amended by PL 1965, c. 381, §19, is further amended to read:

C. For the purposes of paragraph A, the experience rating record of the most recent subject employer ~~shall~~ may not be charged with benefits paid to a claimant whose work record with such employer totaled ~~5~~ 6 consecutive weeks or less of total or partial employment, but in such case the most recent subject employer with whom claimant's work record exceeded ~~5~~ 6 consecutive weeks of total or partial employment ~~shall~~ must be charged, if such employer would have otherwise been chargeable had not subsequent employment intervened.

This paragraph is repealed March 14, 2014.

**Sec. 2. 26 MRSA §1221, sub-§3, ¶C-1** is enacted to read:

C-1. Beginning March 14, 2014, for the purposes of paragraph A, the experience rating record of the most recent subject employer may not be charged with benefits paid to a claimant whose work record with such employer totaled 5 consecutive weeks or less of total or partial employment, but in such case the most recent subject employer with whom the claimant's work record exceeded 5 consecutive weeks of total or partial employment must be charged, if such employer would have otherwise been chargeable had not subsequent employment intervened.

**Sec. 3. Report.** The Commissioner of Labor shall submit a report by December 15, 2013 to the joint standing committee of the Legislature having jurisdiction over labor matters on the effect of the change made pursuant to this Act, specifically with regard to increasing the number of weeks to 6 for which an individual can work for an employer before the employer becomes potentially chargeable for unemployment benefits paid upon separation of that work. In addition to reporting the total impact of the change to the Unemployment Insurance Trust Fund, the report must include the impact on the number of employers affected and on prior employers who are charged for any ensuing benefits as a result of this change, as well as the impact on all employers if the costs are spread out among all employers. The commissioner shall include any employer comments received pertaining to this change.

The joint standing committee is authorized to introduce a bill related to the commissioner's report to the Second Regular Session of the 126th Legislature.

**Sec. 4. Effective date.** That section of this Act that enacts the Maine Revised Statutes, Title 26, section 1221, subsection 3, paragraph C-1 takes effect March 14, 2014.

See title page for effective date, unless otherwise indicated.

**CHAPTER 500**

**H.P. 1250 - L.D. 1698**

**An Act To Establish Veterans Treatment Courts**

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

**Whereas**, studies have shown that combat service may exact a tremendous psychological toll on members of the United States Armed Forces who are faced with the constant threat of death or injury over an extended period of time; and

**Whereas**, researchers have shown that a significant number of members of the United States Armed Forces who have served in Iraq and Afghanistan will suffer, as a result of their military service, mental health injuries, such as post-traumatic stress disorder, depression, anxiety and acute stress, and injuries that affect brain function, such as traumatic brain injury; and

**Whereas**, such combat-related injuries, and the use of drugs and alcohol to cope with such injuries, can lead to encounters with the criminal justice system that would not have occurred without the combat-related injuries; and

**Whereas**, while the vast majority of returning members of the United States Armed Forces do not have contact with the criminal justice system, and most veterans and members of the United States Armed Forces are well-adjusted, contributing members of society, psychiatrists and law enforcement officials agree that combat-related injuries have led to instances of criminality; and

**Whereas**, as a grateful State, we must continue to honor the military service of our men and women by providing them with an alternative to incarceration when feasible, permitting them instead to obtain proper treatment for mental health and substance abuse problems that have resulted from military service; and

**Whereas**, this legislation needs to take effect before the expiration of the 90-day period because veterans are returning from Afghanistan and Iraq every day and need help as soon as possible, if involved in the criminal justice system, to readjust to society; 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. 4 MRSA c. 8-B** is enacted to read:

**CHAPTER 8-B**

**VETERANS TREATMENT COURTS**

**§433. Veterans treatment courts**

**1. Definition.** As used in this section, unless the context otherwise indicates, "veterans treatment court" means a specialized sentencing docket in select criminal cases in which the defendant is a veteran or member of the United States Armed Forces to enable veterans agencies and social services agencies to provide treatment for that defendant. The court does not provide treatment but contracts or collaborates with experienced and expert treatment providers.

**2. Chief Justice may establish.** The Chief Justice of the Supreme Judicial Court may establish veterans treatment courts for veterans and members of the United States Armed Forces. The Supreme Judicial Court may adopt administrative orders and court rules of practice and procedure as necessary.

**3. Federal funding; contracts; cooperative agreements.** The State Court Administrator, district attorneys, the Department of the Attorney General, the Department of Corrections, the Department of Defense, Veterans and Emergency Management, the Department of Public Safety, the Department of Health and Human Services and private service agencies may seek federal funding as it becomes available for the establishment, maintenance and expansion of veterans treatment courts and for the provision by participating agencies of treatment to participating veterans. The Administrative Office of the Courts may enter into contracts and cooperative agreements with the departments and agencies to provide treatment and other social services to participants. The departments and agencies shall collaborate and, to the extent possible, provide financial and other assistance to the judicial branch in order to establish and maintain veterans treatment courts.

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

Effective March 14, 2012.

**CHAPTER 501**

**S.P. 594 - L.D. 1735**

**An Act To Promote Jobs in the  
Motor Coach Industry by  
Providing a Sales Tax  
Exemption for Certain Buses**

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

**Sec. 1. 36 MRSA §1760, sub-§41, ¶B**, as enacted by PL 2009, c. 361, §19 and affected by §37, is amended to read:

B. For purposes of this subsection, personal property is not in use as an instrumentality of interstate or foreign commerce when carrying ~~only~~ only ~~only~~ a bona fide payload that both originates and terminates within the State, unless the personal property is a bus with a capacity of at least 47 passengers that is engaged in transporting within the State a bona fide payload of travelers on an interstate or foreign cruise that originates outside the State and terminates outside the State and the transportation is provided pursuant to a contract

between the interstate or foreign cruise provider and the person providing the transportation.

See title page for effective date.

**CHAPTER 502**

**H.P. 722 - L.D. 978**

**An Act To Provide for School Enrollment and an Appeal Process in Specific Cases in Which Students Do Not Reside with Parents**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 20-A MRSA §5205, sub-§2,** as amended by PL 1991, c. 365, §1, is further amended to read:

**2. Other students not living at home.** A student other than a state ward, a state agency client or a homeless child, residing with another person who is not the student's parent, is considered a resident of the school administrative unit where the student resides if the superintendent of the unit determines that it is in the best interest of the student because ~~of the following~~ that person is residing in the school administrative unit for other than just education purposes and:

- A. ~~It is undesirable and impractical for that student to reside with the student's parent, or that other extenuating circumstances exist which justify residence in the unit; and~~
- B. ~~That person is residing in the school administrative unit for other than just education purposes.~~
- C. There is a safety reason for the student not to reside with the student's parent; or
- D. Other extenuating circumstances exist that justify residence in the unit.

If a person who is not the student's parent or legal guardian requests that a student be considered a resident under this subsection, the school administrative unit shall take reasonable steps to attempt to notify a parent or legal guardian of the request.

In determining whether it is in the best interest of the student to enroll in the school administrative unit, the superintendent shall consult with knowledgeable em-

ployees of relevant school administrative units that the superintendent considers appropriate.

The superintendent shall send written notice of the enrollment determination to the person making a request within 10 calendar days of receiving the request to enroll a student pursuant to this subsection. If the determination is to deny enrollment because the superintendent determines that enrollment in the school administrative unit is not in the best interest of the student as provided in this subsection, the superintendent shall send to the person who made the request written notice of the denial of enrollment, the reason for the denial and the right to appeal to the commissioner.

The commissioner shall review the superintendent's determination on ~~the request of appeal by the student's parent or legal guardian or the person with whom the student is residing~~ and shall make a decision within 7 calendar days of receiving the appeal. The commissioner's decision is final and binding. Upon request of the superintendent of schools in the unit in which a student is placed in accordance with this subsection, the state share percentage for subsidized educational costs for that student is equivalent to the state share percentage of the unit in which the student's parent or legal guardian resides or the average state share percentage, whichever is greater. If the parent or legal guardian does not reside in the State or can not be located, the subsidy is the state average subsidy.

**Sec. 2. Model explanation.** The Commissioner of Education shall prepare and distribute a model for superintendents of schools to use to explain the appeal process when a superintendent determines attendance by a student in the superintendent's school administrative unit is not in the student's best interest under the Maine Revised Statutes, Title 20-A, section 5205, subsection 2.

See title page for effective date.

**CHAPTER 503**

**H.P. 448 - L.D. 590**

**An Act To Codify the Review Practice of Certain Changes in the Application of the Sales and Use Tax Law**

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

**Sec. 1. 36 MRSA §194-A** is enacted to read:

**§194-A. Review of certain changes in the application of sales and use tax law**

**1. Consultation.** Before implementing a significant change in policy, practice or interpretation of the

sales and use tax law that would result in additional revenue, the bureau shall consult with the Office of the Attorney General to determine if the change should be reviewed by the appropriate legislative committee of oversight. If the consultation results in an agreement that a proposed change in policy, practice or interpretation of the sales and use tax law is a significant change that would result in additional revenue and should be reviewed by the appropriate legislative committee of oversight, the bureau shall notify the appropriate legislative committee of oversight pursuant to subsection 2.

2. Notification and review. If, pursuant to subsection 1, the Office of the Attorney General and the bureau agree that a proposed change in policy, practice or interpretation of the sales and use tax law is a significant change that would result in additional revenue and should be reviewed by the appropriate legislative committee of oversight, the bureau shall notify the chairs of the appropriate legislative committee of oversight of the results of the consultation at least 45 days prior to implementation of the change in policy, practice or interpretation of the sales and use tax law, if reasonably practicable. The chairs of the legislative committee of oversight shall notify all committee members in writing of the proposed change in policy, practice or interpretation of the sales and use tax law and may schedule a time for committee review and discussion.

3. Report. The bureau shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the consultation process and, consistent with attorney-client privilege and any other legal privilege and legal confidentiality requirements, provide a brief summary of the issues for which a consultation was sought and the results of each consultation.

4. Assessment validity. The provisions of this section establish a procedural consultation and reporting requirement to assist routine legislative oversight. It does not affect the validity of any assessment or tax liability under this Title.

See title page for effective date.

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**CHAPTER 504**

**S.P. 321 - L.D. 1088**

**An Act Regarding the Writing  
of Bad Checks**

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

**Sec. 1. 17-A MRSA §708, sub-§2, as amended by PL 2001, c. 383, §78 and affected by §156, is further amended to read:**

2. Proof of the following gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person issuing or negotiating the instrument knew that it would not be honored:

A. The drawer had no account with the drawee at the time the instrument was negotiated; ~~or~~

B. Payment was refused by the drawee for lack of funds upon presentment made within the time frame specified in Title 11, section 3-1304, and the drawer failed to honor the drawer's contract within 5 days after actual receipt of a notice of dishonor, as defined in Title 11, section 3-1503, ~~provided except~~ that this time limit is tolled during one subsequent presentment of the negotiable instrument; ~~or~~

C. The drawer refuses to tender payment in the amount of the instrument within 5 days of receipt of a notice under this paragraph mailed by certified or registered mail evidenced by return receipt at the address printed on the instrument or given at the time of issuance. The notice must be substantially as follows:

"You are hereby notified that the following instrument(s):

Number: ..... Date: ..... Amount: .....  
Name of Bank: ..... drawn upon  
..... and payable to .....  
(has)(have) been dishonored. Pursuant to Maine law, the Maine Revised Statutes, Title 17-A, section 708, subsection 2, you have 5 days from receipt of this notice to tender payment of the total amount of the instrument(s) plus the applicable service charge(s) of \$.....(.....dollars and .....cents) and any fee charged to the holder of the instrument(s) by a bank or financial institution as a result of the instrument(s) not being honored, the total amount due being \$.....(.....dollars and.....cents). Pursuant to Title 17-A, section 708, subsection 2, unless this amount is paid in full to .....within 5 days after the actual receipt of this notice of dishonor, your failure to pay the amount owed gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that you knew that your instrument(s) would not be honored. Your failure to pay the amount owed could result in a report to a law enforcement agency for investigation and possible criminal prosecution for negotiating a worthless instrument in violation of Title 17-A, section 708, subsection 1."

See title page for effective date.

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**CHAPTER 505**  
**H.P. 1249 - L.D. 1697**

**An Act Relating to the  
Calculation of Population for  
Purposes of the Maine Uniform  
Building and Energy Code and  
Public Safety Answering Point  
Assessments**

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

**Whereas**, beginning July 1, 2012, municipalities with more than 4,000 residents are required to enforce the Maine Uniform Building and Energy Code; and

**Whereas**, it is necessary to change the method of calculating the number of residents in a municipality for the purpose of enforcement before that date to avoid undue burdens and confusion; 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. 10 MRSA §9724, sub-§1-B** is enacted to read:

**1-B. Residents.** For the purposes of subsections 1 and 1-A, "residents" does not include persons held at a correctional facility, as defined in Title 34-A, section 1001, subsection 6, within the municipality.

**Sec. 2. 25 MRSA §1535, sub-§3** is enacted to read:

**3. Consideration of population.** If a fee established under this section for a political subdivision is based in whole or in part on population, the population of the political subdivision may not include persons held at a correctional facility, as defined in Title 34-A, section 1001, subsection 6, within the political subdivision.

**Sec. 3. 25 MRSA §2923-A**, as enacted by PL 2007, c. 622, §2, is amended to read:

**§2923-A. Requirements of municipalities**

Each municipality that does not have a public safety answering point shall contract with an entity that does have a public safety answering point, which may be the department, for receiving 9-1-1 calls and, as appropriate, directly dispatching emergency services or, through transfer routing or relay routing,

passing 9-1-1 calls to public or private safety agencies that dispatch emergency services. If a municipality without a public safety answering point does not enter into such an agreement, the department shall serve as the public safety answering point for that municipality and the municipality shall pay the department for the provision of those services. Fees received by the department pursuant to this section must be deposited in the Consolidated Emergency Communications Fund established in section 1534. If a fee assessed to a municipality for services provided pursuant to an agreement under this section or by the department is based in whole or in part on population, the population of the municipality may not include persons held at a correctional facility, as defined in Title 34-A, section 1001, subsection 6, within the municipality.

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

Effective March 16, 2012.

**CHAPTER 506**  
**H.P. 1225 - L.D. 1635**

**An Act Regarding Inmates on  
Public Works Projects**

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

**Whereas**, current law allows inmates in county jails to participate in public works-related projects and in the improvement of property owned by charitable organizations; and

**Whereas**, current law restricts the inmates to working in the county where the jail is located; and

**Whereas**, current practice is that inmates participate in public works-related projects wherever the projects are being conducted; and

**Whereas**, it is necessary for this legislation to take effect before the 90-day period after adjournment ends to clarify existing law and facilitate projects; 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. 30-A MRSA §1606, sub-§1**, as amended by PL 2001, c. 171, §9, is further amended to read:

**1. Participation in public works projects authorized.** The sheriff in charge of a county jail, or the sheriff of a county that shares a regional jail with other counties, may permit certain inmates of that jail to participate in public works-related projects or in the improvement of property owned by charitable organizations if the public works project or the property of the charitable organization is in the county where the jail is located in that county or another county. A project or improvement must be supervised by the sheriff of the county in which the project or improvement is being conducted. The sheriff may request payment from charitable organizations for the transportation of the prisoners and for the transportation and per diem compensation for any guards who accompany the prisoners. For the purposes of this section, "charitable organization" means any nonprofit organization organized or incorporated in this State or having a principal place of business in this State that is exempt from federal income taxation under the United States Internal Revenue Code of 1986, Section 501(a), because the nonprofit organization is described in the United States Internal Revenue Code of 1986, Section 501(c)(3).

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

Effective March 16, 2012.

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## CHAPTER 507

### H.P. 1282 - L.D. 1737

#### An Act Regarding the Interception of Oral or Wire Communications of Residents of State Correctional Facilities and Jails

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

**Sec. 1. 15 MRSA §709, sub-§1-B** is enacted to read:

**1-B. Administration of juvenile criminal justice.** "Administration of juvenile criminal justice" has the same meaning as in section 3308, subsection 7, paragraph A, subparagraph (2).

**Sec. 2. 15 MRSA §709, sub-§4-A**, as amended by PL 1997, c. 361, §1, is further amended to read:

**4-A. Investigative officer.** "Investigative officer" means an employee of the Department of Correc-

tions designated by the Commissioner of Corrections as having the authority to conduct investigations of offenses crimes or juvenile crimes relating to the security or orderly management of a facility administered by the department and engage in any other activity that is related to the administration of criminal justice or the administration of juvenile criminal justice.

**Sec. 3. 15 MRSA §709, sub-§4-B**, as enacted by PL 1997, c. 361, §2, is amended to read:

**4-B. Jail investigative officer.** "County jail Jail investigative officer" means an employee of a county jail designated by the county jail administrator as having the authority to conduct investigations of offenses crimes relating to the security or orderly management of the county jail and engage in any other activity that is related to the administration of criminal justice.

**Sec. 4. 15 MRSA §712, sub-§2**, as amended by PL 2009, c. 93, §1, is further amended to read:

**2. Investigative officers.** It is not a violation of this chapter for an investigative officer, as defined in this chapter, or for an employee of the Department of Corrections acting at the direction of an investigative officer, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity that is a necessary incident related to the administration of criminal justice or the administration of juvenile criminal justice, if:

A. Either the sender or receiver of that communication is a person residing in an adult or juvenile correctional facility administered by the Department of Corrections; and

B. Notice of the possibility of interception is provided in a way sufficient to make the parties to the communication aware of the possibility of interception, which includes:

- (1) Providing the resident with a written notification statement;
- (2) Posting written notification next to every telephone at the facility that is subject to monitoring; and
- (3) Informing the recipient of a telephone call from the resident by playing a recorded warning before the recipient accepts the call.

This subsection does not authorize any interference with the attorney-client privilege.

**Sec. 5. 15 MRSA §712, sub-§3**, as enacted by PL 1997, c. 361, §4, is amended to read:

**3. Jail investigative officer.** It is not a violation of this chapter for a county jail investigative officer, as defined in this chapter, or for a county jail employee acting at the direction of a county jail investigative officer to intercept, disclose or use that communication in the normal course of employment while engaged in

any activity that is a ~~necessary incident~~ related to the administration of criminal justice if:

- A. Either the sender or the receiver of that communication is a person residing in an adult section of the ~~county~~ jail; and
- B. Notice of the possibility of interception is provided in a way sufficient to make the parties to the communication aware of the possibility of interception, which includes:
  - (1) Providing the resident with a written notification statement;
  - (2) Posting written notification next to every telephone at the jail that is subject to monitoring; and
  - (3) Informing the recipient of a telephone call from the resident by playing a recorded warning before the recipient accepts the call.

This subsection does not authorize any interference with the attorney-client privilege.

**Sec. 6. 15 MRSA §712, sub-§4** is enacted to read:

**4. Disclosure to another state agency.** It is not a violation of this chapter for the contents of an interception of any oral communication or wire communication that has been legally obtained pursuant to subsection 2 or 3 to be disclosed to a state agency if related to the statutory functions of that agency.

**Sec. 7. 15 MRSA §713**, as amended by PL 1997, c. 361, §5, is repealed and the following enacted in its place:

**§713. Evidence**

The contents of an interception are not admissible in court, except that:

**1. Contents obtained under the laws of another jurisdiction.** The contents of an interception of any oral communication or wire communication that has been legally obtained under the laws of another jurisdiction in which the interception occurred are admissible in the courts of this State, subject to the Maine Rules of Evidence; and

**2. Contents obtained under this chapter.** The contents of an interception of any oral communication or wire communication that has been legally obtained pursuant to section 712, subsection 2 or 3 are admissible in the courts of this State, subject to the Maine Rules of Evidence, if related to the administration of criminal justice or the administration of juvenile criminal justice or the statutory functions of a state agency.

See title page for effective date.

**CHAPTER 508**  
**S.P. 526 - L.D. 1616**

**An Act Concerning Copying Fees for Users of County Registries of Deeds**

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

**Whereas**, county registries of deeds provide a valuable public service in recording and maintaining the land records of the State; and

**Whereas**, under current law, the fees specified for making abstracts and copies of records at registries of deeds will be repealed July 31, 2012; and

**Whereas**, in order to keep the fees in effect, this legislation must be enacted as an emergency measure; 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. 33 MRSA §751, sub-§14-B**, as enacted by PL 2011, c. 378, §2, is amended to read:

**14-B. Abstracts and copies.** Making abstracts and copies of records at the office of the register of deeds as follows:

- A. Five dollars per page for paper abstracts and copies of plans;
- B. One dollar per page for other paper abstracts and copies; and
- C. Fifty cents per page for digital abstracts and copies, except that the fee is 5¢ per page for copies of 1,000 or more digital abstracts and copies of consecutive records; ~~and~~

~~This subsection is repealed July 31, 2012;~~

**Sec. 2. 33 MRSA §751, sub-§14-C**, as enacted by PL 2011, c. 378, §2, is repealed.

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

Effective March 16, 2012.

**CHAPTER 509  
H.P. 1303 - L.D. 1769**

**An Act Regarding Subrogation  
of Medical Payments Coverage**

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

**Sec. 1. 24-A MRSA §2910-A, sub-§1, ¶A,** as enacted by PL 2009, c. 222, §1, is repealed.

See title page for effective date.

**CHAPTER 510  
S.P. 606 - L.D. 1758**

**An Act To Eliminate the  
Deposit Requirements for  
Containers of Limited and  
Restricted Use Pesticides**

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

**Sec. 1. 7 MRSA §616-A, sub-§2, ¶B,** as repealed and replaced by PL 2003, c. 452, Pt. B, §6 and affected by Pt. X, §2, is amended to read:

B. A private applicator, as defined in Title 22, section 1471-C, may not violate a rule regarding records maintained pursuant to section 606, subsection 2, paragraph G; ~~Title 22, section 1471-Q; or a rule adopted pursuant to Title 22, section 1471-Q.~~ The following penalties apply to violations of this paragraph.

- (1) A person who violates this paragraph commits a civil violation for which a fine of not more than \$500 may be adjudged.
- (2) A person who violates this paragraph after having previously violated this paragraph within the previous 4-year period commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

**Sec. 2. 22 MRSA §1471-A,** as amended by PL 1983, c. 542, §§1 and 3, is further amended to read:

**§1471-A. Purpose and policy**

For the purpose of assuring to the public the benefits to be derived from the safe, scientific and proper use of chemical pesticides while safeguarding the public health, safety and welfare, and for the further purpose of protecting natural resources of the State, it is declared to be the policy of the State of Maine to regulate the sale and application of chemical insecticides, fungicides, herbicides and other chemical pesticides; ~~and to regulate the return and disposal of limited and restricted use pesticide containers.~~

**Sec. 3. 22 MRSA §1471-Q,** as amended by PL 1985, c. 54, §1, is repealed.

**Sec. 4. 22 MRSA §1471-BB** is enacted to read:

**§1471-BB. Refund of deposits**

A pesticide dealer shall refund deposits paid in accordance with former section 1471-Q on returned pesticide containers bearing the board's identifying stickers. The board shall refund deposits paid on out-of-state sales in accordance with former section 1471-Q.

This section is repealed December 31, 2017.

See title page for effective date.

**CHAPTER 511  
S.P. 537 - L.D. 1627**

**An Act Regarding the Filing of  
Birth, Death and Marriage  
Data**

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

**Sec. 1. 19-A MRSA §651, sub-§2,** as amended by PL 1997, c. 537, §12 and affected by §62, is further amended to read:

**2. Application.** The parties wishing to record notice of their intentions of marriage shall submit an application for recording notice of their intentions of marriage. The application must include a signed certification that the information recorded on the application is correct and that the applicant is free to marry according to the laws of this State. The applicant's signature must be acknowledged before an official authorized to take oaths. ~~Applications recording notice of intentions to marry must be open for public inspection in the office of the clerk. When the application is submitted, the applicant shall provide the clerk with the social security numbers of the parties. The application must include a statement that the social security numbers of the parties have been provided to the clerk. The clerk shall record the social security numbers provided by each applicant. The record of the social security numbers is confidential and is not open for public inspection. An application recording notice of intention to marry is not open for public inspection for 50 years from the date of the application except that:~~

- A. The names of the parties for whom intentions to marry are filed and the intended date of marriage are public records and open for public inspection; and

B. A person with a researcher identification card under Title 22, section 2706, subsection 8 is permitted to inspect records and may be issued a noncertified copy of an application.

**Sec. 2. 22 MRSA §2702, sub-§3**, as amended by PL 2009, c. 601, §6, is further amended to read:

**3. Transmittal of certificates to other municipalities.** Except as authorized by the state registrar or except if the birth is registered or will be registered on the electronic birth registration system implemented by the state registrar, when the parents of any child born are residents of any other municipality in this State, the clerk of the municipality where that live birth occurred shall transmit a copy of the certificate of the live birth to the clerk of the municipality where the parents reside.

**Sec. 3. 22 MRSA §2703**, as amended by PL 2009, c. 601, §8, is further amended to read:

**§2703. Birth in unincorporated place**

When a birth occurs in an unincorporated place, it must be reported to ~~the a~~ municipal clerk ~~in the municipality that is nearest to the place at which the birth took place as specified by the state registrar~~ and must be recorded, or registered in the electronic birth registration system, by the municipal clerk to whom the report is made. All such reports and records must be ~~made and recorded and returned~~ forwarded to the state registrar.

**Sec. 4. 22 MRSA §2704**, as amended by PL 2009, c. 601, §9, is further amended to read:

**§2704. Registration of births and deaths at Togus**

Certificates of live births, deaths and fetal deaths occurring at the ~~United States Department of Veterans Affairs at federal facility known as~~ Togus must be filed directly with the state registrar. The state registrar shall forward copies of all such certificates of live birth, death and fetal death to the clerk of the municipality where the parents of the child reside.

**Sec. 5. 22 MRSA §2706, sub-§8**, as amended by PL 2011, c. 58, §1, is further amended to read:

**8. Genealogical research.** Custodians of certificates and records of birth, marriage and death, including applications regarding notice of intentions to marry, shall permit inspection of records by and issue noncertified copies to researchers engaged in genealogical research who hold researcher identification cards, as specified by rule adopted by the department. The department shall adopt rules to implement this subsection. Rules adopted by the department pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. 6. 22 MRSA §2763, first ¶** is amended to read:

Whoever assumes the custody of a child of unknown parentage shall immediately report to the ~~local town or city clerk~~ Office of Data, Research and Vital Statistics in writing:

**Sec. 7. 22 MRSA §2764, sub-§§1 and 2** are amended to read:

**1. Certificate of live birth.** A certificate of live birth on the prescribed form ~~shall~~ must be filed with the ~~clerk of the municipality where birth occurred~~ Office of Data, Research and Vital Statistics if the date of filing is more than 7 days but not more than ~~7 years~~ one year after the date of birth. The state registrar may prescribe the evidence of the facts of birth to be presented in the event none of the persons specified in section 2761 are available to sign the certificate.

**2. Delayed registration of birth.** When the birth occurred more than ~~7 years~~ one year prior to the date of filing, it ~~shall~~ must be registered on a form entitled "Delayed Registration of Birth." The form ~~shall~~ must provide for the following information and such other data as may be required by the department:

A. A statement by the applicant including the name and sex of the person whose birth is to be registered, the place and date of birth, the name and birthplace of the father; and the maiden name and birthplace of the mother;

B. The signature of the registrant, or a parent or guardian if the registrant is under 15 years of age or is mentally incompetent;

C. The signature of the registrant ~~shall~~ must be acknowledged before an official authorized to take oaths;

D. A description of each document submitted in support of the delayed birth registration; and

E. The date of filing.

**Sec. 8. 22 MRSA §2764, sub-§3, ¶A** is amended to read:

A. If the birth occurred more than ~~7~~ one year but less than 15 years prior to the date of filing, the facts of birth stated by the applicant ~~shall~~ must be supported by at least 2 documents, only one of which may be an affidavit of personal knowledge; or

**Sec. 9. 22 MRSA §2764, sub-§5** is amended to read:

**5. Attested copy to municipality.** After the delayed birth registration has been accepted, the state registrar shall forward ~~a certified~~ an attested copy to the clerk of the municipality where the birth occurred or, in case of a birth in an unincorporated place, to the municipal clerk specified by the state registrar.

See title page for effective date.

**CHAPTER 512  
S.P. 536 - L.D. 1626**

**An Act To Clarify the  
Authority of the Department of  
Health and Human Services To  
Impose Administrative  
Sanctions upon Vendors,  
Providers and Participants in  
the Women, Infants and  
Children Special Supplemental  
Food Program**

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

**Sec. 1. 22 MRSA §1951** is amended to read:

**§1951. Health improvement program**

The department, ~~through its Bureau of Health,~~ is authorized to administer a program to extend and improve its services for promoting the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress. ~~Nothing in this~~ This chapter shall may not be construed as authorizing any public official, agent or representative, in carrying out ~~said~~ this chapter, to take charge of any child over the objections of either the father or the mother of ~~such~~ that child, or of the person standing in loco parentis to ~~such~~ that child, except pursuant to a proper court order.

**Sec. 2. 22 MRSA §3107**, as enacted by PL 1989, c. 777, is repealed and the following enacted in its place:

**§3107. Women, Infants and Children Special Supplemental Food Program vendor, provider and participant penalties**

The department, as part of its administration of the Women, Infants and Children Special Supplemental Food Program of the federal Child Nutrition Act of 1966, referred to in this section as "the program," shall adopt rules defining prohibited conduct under the program and establishing penalties for such conduct and as necessary to implement this section. After providing an opportunity for a hearing in accordance with Title 5, chapter 375, subchapter 4, 7 Code of Federal Regulations, Section 246.9 (2011), 7 Code of Federal Regulations, Section 246.18 (2011) and any other federal law that applies to adjudicatory proceedings for vendors, providers and participants and making a determination that the affected party has violated a provision of the program, including rules that apply to the program, the department may:

**1. Vendors.** Assess and impose a fine or penalty against a vendor under the program;

**2. Providers.** Disqualify a local agency provider under the program; or

**3. Participants.** Require repayment of benefits made under the program to a participant or disqualify a participant from program benefits.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 513  
S.P. 579 - L.D. 1680**

**An Act To Amend the  
Circuitbreaker Program To  
Include Claimants Occupying  
Property Pursuant to a Trust  
and To Require Proof of  
Payment of Rent**

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

**Sec. 1. 36 MRSA §6201, sub-§5**, as amended by PL 1995, c. 368, Pt. CCC, §7 and affected by §11, is further amended to read:

**5. Homestead.** "Homestead" means the dwelling owned or rented by the claimant or held in a revocable living trust for the benefit of the claimant and occupied by the claimant and the claimant's dependents as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land, up to 10 acres, upon which it is built. "Owned" includes a vendee in possession under a land contract and of one or more joint tenants or tenants in common and includes possession under a legally binding agreement that allows the owner of the dwelling to transfer the property but continue to occupy the dwelling as a home until some future event stated in the agreement.

**Sec. 2. Adoption of rules.** The State Tax Assessor shall adopt routine technical rules, pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, to require, for applications filed on or after August 1, 2012, proof of rent paid when a claimant makes a claim under the Circuitbreaker Program based on rent paid in the amount of \$9,000 or more for the year and to establish a process and provide instructions for providing proof.

**Sec. 3. Application.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 6201, subsection 5 applies to applications for the Circuitbreaker Program filed on or after August 1, 2012.

See title page for effective date.

CHAPTER 514  
S.P. 582 - L.D. 1682

**An Act To Allow Employees of  
the Small Enterprise Growth  
Board To Participate in the  
State's Group Health Plan**

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

**Whereas,** during recent years, health insurance premiums have skyrocketed; and

**Whereas,** the cost of insurance is now at an unsustainable level for the Small Enterprise Growth Board; and

**Whereas,** allowing the Small Enterprise Growth Board to participate in the State's group health plan would make purchasing insurance more affordable for its employees; 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 §285, sub-§1, ¶F-10** is enacted to read:

F-10. Any employee of the Small Enterprise Growth Board;

**Sec. 2. Application.** Employees of the Small Enterprise Growth Board eligible for the group health plan pursuant to the Maine Revised Statutes, Title 5, section 285, subsection 1, paragraph F-10 are eligible to participate in the health plan effective July 1, 2012.

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

Effective March 16, 2012.

CHAPTER 515  
S.P. 602 - L.D. 1754

**An Act To Amend Certain  
Provisions of Law Governing  
the Department of Corrections**

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

**Sec. 1. 15 MRSA §224, sub-§2,** as repealed and replaced by PL 1983, c. 843, §10, is amended to read:

**2. Violations of probation and parole.** Expenses incurred in connection with the extradition of persons charged with violating the terms and conditions of probation, ~~shall~~ must be shared equally between the district attorney of the county in which the person was convicted and the Department of Corrections, ~~Division of Probation and Parole.~~ Expenses incurred in connection with the extradition of persons charged with violating the terms and conditions of parole ~~shall~~ must be paid by the Department of Corrections, ~~Division of Probation and Parole.~~

**Sec. 2. 34-A MRSA §1216, sub-§1,** as amended by PL 2005, c. 487, §2 to 4, is further amended to read:

**1. Limited disclosure.** All orders of commitment, medical and administrative records, applications and reports, and facts contained in them, pertaining to any person receiving services from the department must be kept confidential and may not be disclosed by any person, except that public records must be disclosed in accordance with Title 1, section 408; criminal history record information may be disseminated in accordance with Title 16, chapter 3, subchapter 8; and documents other than those documents pertaining to information obtained by the department for the purpose of evaluating a client's ability to participate in a community-based program or from informants in a correctional or detention facility for the purpose of determining whether facility rules have been violated or pertaining to a victim's request for notice of release may, and must upon request, be disclosed:

- A. To any person if the person receiving services, that person's legal guardian, if any, and, if that person is a minor, that person's parent or legal guardian give informed written consent to the disclosure of the documents referred to in this subsection after being given the opportunity to review the documents sought to be disclosed;
- B. To any state agency if necessary to carry out the statutory functions of that agency;
- C. If ordered by a court of record, subject to any limitation in the Maine Rules of Evidence, Rule 503;
- D. To any criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile criminal justice or for criminal justice agency employment;
- E. To persons engaged in research if:
  - (1) The research plan is first submitted to and approved by the commissioner;

- (2) The disclosure is approved by the commissioner; and
- (3) Neither original records nor identifying data are removed from the facility or office that prepared the records.

The commissioner and the person doing the research shall preserve the anonymity of the person receiving services from the department and may not disseminate data that refer to that person by name or number or in any other way that might lead to the person's identification;

F. To persons who directly supervise or report on the health, behavior or progress of a juvenile, to the superintendent of a juvenile's school and the superintendent's designees and to agencies that are or might become responsible for the health or welfare of a juvenile if the information is relevant to and disseminated for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation, including reintegration into the school; or

G. To any state agency engaged in statistical analysis for the purpose of improving the delivery of services to persons who are or might become mutual clients if:

- (1) The plan for the statistical analysis is first submitted to and approved by the commissioner; and
- (2) The disclosure is approved by the commissioner.

The commissioner and the state agency requesting the information shall preserve the anonymity of the persons receiving services from the department and may not disseminate data that refer to any person by name or number or that in any other way might lead to a person's identification.

Notwithstanding any other provision of law, the department may release the names, dates of birth and social security numbers of ~~juveniles persons~~ receiving services from the department and, if applicable, eligibility numbers and the dates on which those ~~juveniles persons~~ received services to ~~the Department of Health and Human Services~~ any state or federal agency for the sole purpose of determining eligibility and billing for services and payments under federally funded programs administered by the ~~Department of Health and Human Services~~ and provided by or through the ~~department~~ agency. The department may also release to the ~~Department of Health and Human Services~~ agency information required for and to be used solely for audit or research purposes, consistent with federal law, for those services provided by or through the department. ~~Department of Health and Human Services Agency~~ personnel ~~must shall~~ treat this information as confidential in accordance with federal and state law and

~~must shall~~ return the records when their purpose has been served.

**Sec. 3. 34-A MRSA §1403, sub-§9, ¶A**, as amended by PL 2011, c. 340, §2, is further amended to read:

A. The program may make services and goods available for use by correctional facilities or for purchase by other state, county or local governmental entities, private businesses in the State, community agencies, as defined in section 1206, subsection 1, or the public. The program may also donate services or goods to other state, county or local governmental entities for the purpose of promoting prison industries or to public or private nonprofit organizations.

See title page for effective date.

**CHAPTER 516**

**S.P. 614 - L.D. 1777**

**An Act To Correct an Inconsistency in the Employment Security Law**

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

**Sec. 1. 26 MRSA §1193, sub-§10, ¶C** is enacted to read:

C. If the individual did not contribute to the plan, the individual receives a benefit reduced by the full prorated weekly amount of the pension received. The benefit may not be reduced below zero.

See title page for effective date.

**CHAPTER 517**

**S.P. 617 - L.D. 1780**

**An Act To Enhance Career Pathways for Adult Learners**

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

**Sec. 1. 20-A MRSA §8601-A, sub-§1**, as amended by PL 2007, c. 131, §2, is repealed and the following enacted in its place:

**1. Adult education.** "Adult education" means an education program primarily operated for individuals beyond the compulsory school age that is administered by school administrative units and that includes intake, assessment, career advising, instruction and individual learning plans; is guided by data management, annual

monitoring and annual professional development plans; uses appropriately certified staff; is designed to meet identified local needs; and offers at least 3 of the following:

- A. Basic literacy instruction or instruction in English as a Second Language;
- B. High school completion courses;
- C. College transition courses;
- D. Career pathways services; and
- E. Enrichment courses.

**Sec. 2. 20-A MRSA §8601-A, sub-§2-A,** as amended by PL 2007, c. 131, §2, is repealed.

**Sec. 3. 20-A MRSA §8601-A, sub-§12,** as enacted by PL 2007, c. 131, §2, is amended to read:

**12. Adult career and technical education.** "Adult career and technical education" means organized educational activities, eligible for federal or state funding, that:

- A. Offer a sequence of courses that provide individuals with the academic and technical knowledge and skills the individuals need to prepare for further education and for careers, other than careers requiring a baccalaureate, master's or doctoral degree, in current or emerging employment sectors; and
- B. Include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills and occupation-specific skills of an individual.

~~"Adult career and technical education" includes career and technical education as defined in subsection 2-A, and similar educational activities for postsecondary students.~~

**Sec. 4. 20-A MRSA §8601-A, sub-§13,** as enacted by PL 2007, c. 131, §2, is amended to read:

**13. Adult learners with disabilities.** "Adult learners with disabilities" means ~~adults~~ individuals who cannot benefit from a regularly scheduled adult education course because of a disability and are found by the unit, region or center to be capable of benefiting from a course for adult learners with disabilities designed to help adults learn basic life skills through practical instruction related to their needs and goals. Adult learners with disabilities are those students who are not eligible, due to age, for services under the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400, et seq have been determined eligible as students with disabilities under the federal Individuals with Disabilities Education Act who are 16 years of age or older and under 21 years of age and who have neither received a regular high

school diploma nor turned 20 years of age during the prior school year; individuals who are eligible under Section 504 of the Rehabilitation Act of 1973 and individuals who are eligible under the federal Americans with Disabilities Act of 1990.

**Sec. 5. 20-A MRSA §8601-A, sub-§14,** as enacted by PL 2007, c. 131, §2, is amended to read:

**14. Adult workforce training and retraining.** "Adult workforce training and retraining" means courses or activities eligible for state funding that serve any of the following adult learners:

- A. Preparatory learners, who are adults learning new skills in preparation for employment in a job or occupation that is new to them;
- B. Supplemental learners, who are adults pursuing courses or activities that are related, in a clear and applicable manner, to current full-time or part-time employment or wage-earning activities; ~~or~~
- C. Certificate learners, who are adults participating in a sequence of courses that provide individuals with the academic and technical knowledge and skills that individuals need to prepare for further education and careers in current or emerging employment sectors, including the skills and training and work credential programs conducted under the auspices of the boards of the local workforce investment areas designated pursuant to the federal Workforce Investment Act of 1998, Public Law 105-220, and the department; and
- D. Career pathways learners, who are adults participating in career pathways services.

**Sec. 6. 20-A MRSA §8601-A, sub-§22** is enacted to read:

**22. Career pathways services.** "Career pathways services" means career counseling and education for individuals who seek to secure employment and to advance over time to successively higher levels of education and employment by following a pathway, each step of which is designed to prepare the individual for the next level of education or employment.

**Sec. 7. 20-A MRSA §8606-A, sub-§2, ¶A,** as amended by PL 2007, c. 131, §5, is further amended to read:

- A. The recommended funding level must include funds in an amount that is sufficient to provide for state administration of adult education programs including funds for the cost of general educational development tests and administration; supporting a statewide volunteer program of literacy outreach literacy programs; state-sponsored professional development; state-level data collection, including the required software for units, regions or centers providing adult education programs; and reim-

bursment of the costs listed in section 8607-A at the rates established in that section. The recommended funding level may not exceed the maximum allowable expenditures in the base year, adjusted pursuant to paragraph C.

**Sec. 8. 20-A MRSA §8606-A, sub-§3**, as amended by PL 2007, c. 131, §5, is further amended to read:

**3. State reimbursement.** State reimbursement for expenditures on adult education programs must be based on each unit's, region's or center's actual adult education program costs in the base year, ~~except that in fiscal years 1991-92 and 1992-93 available state funding is limited to the fiscal year 1990-91 level, and in fiscal years 1995-96 and 1996-97 available state funding is limited to the fiscal year 1994-95 level.~~

A. The state reimbursement must be based on the unit's, region's or center's expenditures for the base year in accordance with the maximum allowable expenditures and the local program cost adjustment to the equivalent of the year prior to the year of the allocation.

B. State reimbursement must be paid to each eligible unit, region or center during the 2nd quarter of the State's fiscal year.

See title page for effective date.

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## CHAPTER 518

H.P. 1227 - L.D. 1637

### An Act To Permit Financial Institutions To Share Certain Information for the Purpose of Preventing Electronic Bank Card Losses and Other Fraud

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

**Sec. 1. 9-B MRSA §161, sub-§2, ¶M**, as enacted by PL 2001, c. 262, Pt. B, §3, is amended to read:

M. The sharing of information to the extent permitted by the provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy of Consumer Information regulations, as adopted by the Office of the Comptroller of the Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332 (2001); the Office of Thrift Supervision, 12 Code of Federal Regula-

tions, Part 573 (2001); the National Credit Union Administration, 12 Code of Federal Regulations, Part 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations, Part 313 (2001); or the Securities and Exchange Commission, 17 Code of Federal Regulations, Part 248 (2001). This paragraph is not intended to permit the release of health care information except as permitted by Title 22, section 1711-C or Title 24-A, chapter 24; ~~or~~

**Sec. 2. 9-B MRSA §161, sub-§2, ¶N**, as enacted by PL 2001, c. 262, Pt. B, §3, is amended to read:

N. The sharing of financial records with affiliates other than as permitted under paragraphs L and M; ~~or~~

**Sec. 3. 9-B MRSA §161, sub-§2, ¶O** is enacted to read:

O. The disclosure of the financial records of a customer for the same reasons that such disclosure is permitted for nonpublic personal information under paragraph M and the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6802(e) (2010).

See title page for effective date.

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## CHAPTER 519

H.P. 1288 - L.D. 1747

### An Act To Prohibit Municipalities from Imposing Fees on Ice Fishing Shacks

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

**Whereas**, this legislation needs to take effect before the expiration of the 90-day period in order to apply to the upcoming ice fishing season; 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. 12 MRSA §13201, sub-§3**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**3. Ice fishing shacks.** The enactment of any ordinance regulating ice fishing shacks on:

A. Sources of public water supply as provided under Title 22, section 2642 except that a municipality or political subdivision of the State may not impose a fee on ice fishing shacks on sources of public water supply; or

B. Coastal waters as defined in section 6001, subsection 6 except that a municipality or political subdivision of the State may not impose a fee on ice fishing shacks on coastal waters.

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

Effective March 16, 2012.

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## CHAPTER 520

### S.P. 559 - L.D. 1660

#### **An Act To Provide Tort Claims Immunity for Out-of-state Regional Transit Organizations That Provide Regular Service in Maine**

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

**Sec. 1. 14 MRSA §8102, sub-§3,** as amended by PL 2007, c. 563, §2, is further amended to read:

**3. Political subdivision.** "Political subdivision" means any city, town, plantation, county, administrative entity or instrumentality created pursuant to Title 30-A, chapters 115 and 119, incorporated fire-fighting unit that is organized under Title 13-B and is officially recognized by any authority created by statute, quasi-municipal corporation and special purpose district, including, but not limited to, any water district, sanitary district, hospital district, school district of any type, an airport authority established pursuant to Title 6, chapter 10, any volunteer fire association as defined in Title 30-A, section 3151, a transit district as defined in Title 30-A, section 3501, subsection 1, a regional transportation corporation as defined in Title 30-A, section 3501, subsection 2, a transit district or regional transportation corporation formed under the laws of another state that would qualify as a transit district or regional transportation corporation under Title 30-A, chapter 163 if formed under the laws of this State and any emergency medical service.

**Sec. 2. 14 MRSA §8105, sub-§1-A** is enacted to read:

**1-A. Limit established for out-of-state transit district or regional transportation corporation.** In any claim or cause of action permitted by this chapter, the award of damages, including costs, against a transit district or regional transportation corporation formed

under the laws of another state contiguous to this State that would qualify as a transit district or regional transportation corporation under Title 30-A, chapter 163 if formed under the laws of this State, or against its employees, or both, may not exceed the higher of the limit established under subsection 1 and the limit established under the applicable statute limiting tort liability of the state in which the transit district or regional transportation corporation is formed or organized. This limit applies to any and all claims arising out of a single occurrence. The transit district or regional transportation corporation shall maintain insurance coverage for claims under this Act of at least \$1,000,000.

This subsection is repealed July 1, 2016.

See title page for effective date.

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## CHAPTER 521

### H.P. 1301 - L.D. 1767

#### **An Act To Authorize the Commissioner of Education To Allow Access to Criminal History Record Information to Entities Providing Document Management and To Remove Applicants' Fingerprints from the Fingerprint File**

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

**Sec. 1. 20-A MRSA §6103, sub-§3,** as amended by PL 1997, c. 452, §3, is further amended to read:

**3. Confidentiality.** Any information obtained pursuant to this section is confidential. The results of criminal history record checks received by the commissioner are for official use only and may not be disseminated outside the department, except that the commissioner may outsource administrative functions of software document management according to federal outsourcing standards as described in 28 Code of Federal Regulations, Section 906.2 (2011) and allow access to these results for that purpose.

**Sec. 2. 20-A MRSA §6103, sub-§9,** as enacted by PL 1999, c. 110, §2, is amended to read:

**9. Right of applicant and commissioner to remove fingerprints from fingerprint file.** Teachers or educational personnel whose certification, authorization or approval has expired and who have not applied for renewal of certification, authorization or approval may request in writing that the State Bureau of Identification remove their fingerprints from the bureau's fingerprint file. In response to a written request, the

bureau shall remove the requester's fingerprints from the fingerprint file and provide written confirmation of that removal to the requester.

The commissioner may, without notice to an applicant, remove fingerprints from the fingerprint file maintained by the State Bureau of Identification when an applicant has had no active credential for 7 years. An applicant may renew a credential after that applicant's fingerprints have been removed from the fingerprint file upon submitting again to fingerprinting.

See title page for effective date.

## CHAPTER 522

### S.P. 528 - L.D. 1618

#### An Act To Amend the Campaign Finance Laws Regarding Reporting Refunds of Campaign Expenditures

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

**Sec. 1. 21-A MRSA §1017, sub-§5,** as amended by PL 2009, c. 302, §4, is further amended to read:

**5. Content.** A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of \$50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name of each payee and creditor and any refund that a payee has made to the candidate or an agent of the candidate. If the payee is a member of the candidate's household or immediate family, the candidate must disclose the candidate's relationship to the payee in a manner prescribed by the commission. The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. The candidate and the treasurer are jointly and severally responsible for the timely and accurate filing of each required report.

**Sec. 2. 21-A MRSA §1125, sub-§7-A,** as amended by PL 2007, c. 443, Pt. B, §6, is repealed and the following enacted in its place:

**7-A. Deposit into account; release of bank records.** A candidate or a committee authorized pursuant to section 1013-A, subsection 1 shall deposit all reve-

nues from the fund and all seed money contributions in an account, referred to in this subsection as a "campaign account," with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds.

A. A participating candidate shall provide to the commission a signed written authorization allowing the bank or other financial institution administering a campaign account to release to the commission all records held by that bank or institution pertaining to the campaign account, including, but not limited to, campaign account statements, records of payments or transfers from the campaign account and deposits of funds to the campaign account.

B. The executive director of the commission or its auditor, during an audit or during an investigation authorized by the commission or the chair of the commission of potential noncompliance with the requirements of this chapter, chapter 13 or a rule of the commission, may request that a candidate provide the records of a campaign account. If the candidate fails to comply with the request within 30 days of receiving it, the executive director or auditor may use the authorization obtained pursuant to paragraph A to obtain the records directly from the bank or other financial institution.

**Sec. 3. 21-A MRSA §1125, sub-§12,** as amended by PL 2009, c. 302, §20, is further 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, refunds received by a candidate or agent of that candidate 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 household or a business or non-profit entity affiliated with a member of the candidate's immediate family or household, the candidate must disclose the candidate's relationship to the payee 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. 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. If the candidate or agent of the candidate receives a refund of an expenditure made for the cam-

paign after filing the final report, the candidate shall return those funds to the fund within 14 days of receiving the refund.

**Sec. 4. Effective date.** That section of this Act that repeals and replaces the Maine Revised Statutes, Title 21-A, section 1125, subsection 7-A takes effect January 1, 2013.

See title page for effective date, unless otherwise indicated.

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## CHAPTER 523

### H.P. 1236 - L.D. 1684

#### An Act To Amend the Uniform Commercial Code Regarding Motor Vehicle Warranties

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

**Sec. 1. 11 MRSA §2-316, sub-§(5),** as amended by PL 1997, c. 497, §1, is further amended to read:

(5). The provisions of subsections (2), (3) and (4) do not apply to sales of consumer goods or services. Any language, oral or written, used by a seller or manufacturer of consumer goods and services that attempts to exclude or modify any implied warranties of merchantability and fitness for a particular purpose or to exclude or modify the consumer's remedies for breach of those warranties is unenforceable. A seller or manufacturer of a motor vehicle may indicate that, to the extent permitted by law, the seller or manufacturer is excluding or modifying implied warranties. Any language, oral or written, used by a prior seller or manufacturer of consumer goods and services that attempts to exclude or modify the warranty or reimbursement remedy of a retail seller of consumer goods and services who provides reimbursement or return to a consumer as required to honor an implied warranty of merchantability due to a defect for which that prior seller or manufacturer is liable under section 2-314 or 2-315 is unenforceable. Consumer goods and services are those new or used goods and services, including mobile homes, that are used or bought primarily for personal, family or household purposes.

(a). A violation of section 2-314, 2-315 or 2-316 arising from the retail sale of consumer goods and services constitutes a violation of Title 5, chapter 10, Unfair Trade Practices Act.

(b). A violation of section 2-316 arising from an attempt by a prior seller or manufacturer of consumer goods and services to exclude or modify the warranty or reimbursement remedy of a retail seller of consumer goods and services who provides reimbursement or return to a consumer as

required to honor an implied warranty of merchantability due to a defect for which that prior seller or manufacturer is liable under section 2-314 or 2-315 does not constitute a violation of Title 5, chapter 10, Unfair Trade Practices Act.

See title page for effective date.

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## CHAPTER 524

### H.P. 1330 - L.D. 1804

#### An Act To Implement Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions

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

**Sec. 1. 22 MRSA §1555-D, sub-§1,** as enacted by PL 2003, c. 444, §2, is repealed.

**Sec. 2. 22 MRSA §3034, sub-§2,** as enacted by PL 1991, c. 339, §5, is amended to read:

**2. Confidentiality; disclosure.** ~~All~~ Except as provided in subsection 5, all information and materials gathered and retained pursuant to this section must be used solely for the purposes of identification of deceased persons and persons found alive who are unable to identify themselves because of mental or physical impairment. The files and materials are confidential, except that compiled data that does not identify specific individuals may be disclosed to the public. Upon the identification of a deceased person, those records and materials used for the identification may become part of the records of the Office of Chief Medical Examiner and may then be subject to public disclosure as pertinent law provides.

**Sec. 3. 22 MRSA §3034, sub-§5** is enacted to read:

**5. Release to assist in search.** The Office of Chief Medical Examiner may release confidential information and materials about a missing person that are gathered and retained pursuant to this section if the Chief Medical Examiner determines that such release may assist in the search for the missing person.

**Sec. 4. 22 MRSA §8707, sub-§4,** as amended by PL 2007, c. 466, Pt. A, §44, is further amended to read:

**4. Certain confidential information.** ~~The rules must determine to be confidential or privileged information all data designated or treated as confidential or privileged by the former Maine Health Care Finance Commission. Information regarding discounts off charges, including capitation and other similar agreements, negotiated between a payor or purchaser and a~~

~~provider of health care that was designated as confidential only for a limited time under the rules of the former Maine Health Care Finance Commission is confidential to the organization, notwithstanding the termination date for that designation specified under the prior rules. The board may determine financial data submitted to the organization under section 8709 to be confidential information if the public disclosure of the data will directly result in the provider of the data being placed in a competitive economic disadvantage. This section may not be construed to relieve the provider of the data of the requirement to disclose such information to the organization in accordance with this chapter and rules adopted by the board.~~

**Sec. 5. 23 MRSA §63**, as repealed and replaced by PL 2001, c. 158, §1, is repealed and the following enacted in its place:

**§63. Confidentiality of records held by the department and the Maine Turnpike Authority**

**1. Confidential records.** The following records in the possession of the department and the Maine Turnpike Authority are confidential and may not be disclosed, except as provided in this section:

A. Records and correspondence relating to negotiations for and appraisals of property; and

B. Records and data relating to engineering estimates of costs on projects to be put out to bid.

**2. Engineering estimates.** Engineering estimates of total project costs are public records after the execution of project contracts.

**3. Records relating to negotiations and appraisals.** The records and correspondence relating to negotiations for and appraisals of property are public records beginning 9 months after the completion date of the project according to the record of the department or Maine Turnpike Authority, except that records of claims that have been appealed to the Superior Court are public records following the award of the court.

**Sec. 6. 23 MRSA §8115**, as amended by PL 2005, c. 312, §9, is further amended to read:

**§8115. Obligations of authority**

All expenses incurred in carrying out this chapter must be paid solely from funds provided to or obtained by the authority pursuant to this chapter. Any notes, obligations or liabilities under this chapter may not be deemed to be a debt of the State or a pledge of the faith and credit of the State; but those notes, obligations and liabilities are payable exclusively from funds provided to or obtained by the authority pursuant to this chapter. Pecuniary liability of any kind may not be imposed upon the State or any locality, town or landowner in the State because of any act, agreement,

~~contract, tort, malfeasance, misfeasance or nonfeasance by or on the part of the authority or its agents, servants or employees. The records and correspondence relating to negotiations, trade secrets received by the authority, estimates of costs on projects to be put out to bid and any documents or records solicited or prepared in connection with employment applications are confidential. The authority is deemed to have a lawyer-client privilege.~~

**Sec. 7. 23 MRSA §8115-A** is enacted to read:

**§8115-A. Authority records**

**1. Confidential records.** The following records of the authority are confidential:

A. Records and correspondence relating to negotiations of agreements to which the authority is a party or in which the authority has a financial or other interest. Once entered into, an agreement is not confidential;

B. Trade secrets;

C. Estimates prepared by or at the direction of the authority of the costs of goods or services to be procured by or at the expense of the authority; and

D. Any documents or records solicited or prepared in connection with employment applications, except that applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O.

**2. Lawyer-client privilege.** The authority may claim the lawyer-client privilege in the same manner and circumstances as a corporation is authorized to do so.

**Sec. 8. 24 MRSA §2505**, as amended by PL 2007, c. 380, §1, is further amended to read:

**§2505. Committee and other reports**

Any professional competence committee within this State and any physician licensed to practice or otherwise lawfully practicing within this State shall, and any other person may, report the relevant facts to the appropriate board relating to the acts of any physician in this State if, in the opinion of the committee, physician or other person, the committee or individual has reasonable knowledge of acts of the physician amounting to gross or repeated medical malpractice, habitual drunkenness, addiction to the use of drugs, professional incompetence, unprofessional conduct or sexual misconduct identified by board rule. The failure of any such professional competence committee or any such physician to report as required is a civil violation

for which a fine of not more than \$1,000 may be adjudged.

Except for specific protocols developed by a board pursuant to Title 32, section 1073, 2596-A or 3298, a physician, dentist or committee is not responsible for reporting misuse of alcohol or drugs or professional incompetence or malpractice as a result of physical or mental infirmity or by the misuse of alcohol or drugs discovered by the physician, dentist or committee as a result of participation or membership in a professional review committee or with respect to any information acquired concerning misuse of alcohol or drugs or professional incompetence or malpractice as a result of physical or mental infirmity or by the misuse of alcohol or drugs, as long as that information is reported to the professional review committee. Nothing in this section may prohibit an impaired physician or dentist from seeking alternative forms of treatment.

The confidentiality of reports made to a board under this section is governed by this chapter.

**Sec. 9. 24 MRSA §2510, sub-§1, ¶¶D and E,** as enacted by PL 1977, c. 492, §3, are amended to read:

D. Pursuant to an order of a court of competent jurisdiction; ~~or~~

E. To qualified personnel for bona fide research or educational purposes, if personally identifiable information relating to any patient or physician is first deleted; ~~or~~

**Sec. 10. 24 MRSA §2510, sub-§1, ¶F** is enacted to read:

F. To other state or federal agencies when the information contains evidence of possible violations of laws enforced by those agencies.

**Sec. 11. 24-A MRSA §2393, sub-§2, ¶D,** as corrected by RR 1995, c. 2, §52, is amended to read:

D. The initial surcharges must be paid in accordance with the following provisions.

(1) Beginning July 1, 1995 every insurer writing workers' compensation insurance in the State shall collect from workers' compensation insurance policyholders and pay to the pool a surcharge on all surchargeable premiums received by the insurer for those policies. During the initial surcharge period, the surcharge is at a fixed rate of 6.32% of the surchargeable premium. The surcharge may be applied only to policies with an effective date on or after 12:01 a.m., July 1, 1995. All surcharges received by each insurer during the preceding calendar quarter must be remitted to the pool within 15 days following the end of each calendar quarter, except that servicing

carriers shall remit on February 15th, May 15th, August 15th and November 15th of each year. Any surcharge proceeds not remitted on a timely basis accrue interest at the rate of 10% per annum from the due date until paid in full. The pool is entitled to reimbursement from any insurer failing to remit surcharge proceeds on a timely basis for the pool's costs of collection of those amounts, including all collection costs and fees, reasonable attorney's and paralegal's fees and any other professional fees and expenses associated with the pool's collection efforts. The surcharges described in this subparagraph do not apply to reinsurance recognized by the superintendent pursuant to ~~chapter~~ Chapter 250, section 2, paragraph G or section 3, paragraph G, procured by an individual self-insured employer or a self-insured employer group.

(2) Self-insured employers that secured their obligation to provide workers' compensation benefits under the Workers' Compensation Act through issuance or renewal at any point during the fresh start period of an insurance policy for any portion of any of the policy years 1988 to 1992 are subject to a surcharge as provided in the following.

(a) During the initial surcharge period the rate of surcharge is 6.32% of the surchargeable premium as adjusted pursuant to this paragraph for the self-insured employer's current plan year utilizing estimated payroll as submitted with the self-insured employer's renewal application for authority to self-insure, in accordance with Chapter 250, section 2, paragraph C, subparagraph 1, division c or Chapter 250, section 3, paragraph C, subparagraph 1, division g as applicable, subject to audit pursuant to division (d), subdivision (iii). If the plan year in which a surcharge is collected or a credit is distributed is shorter than 12 months, due to a change in accounting period or termination of self-insurance authorization, the surcharge or credit for that plan year must be based upon the final audited payroll for the short plan year.

(b) All surcharges must be collected or distributed on a plan year basis. In each plan year, the percentage of the surchargeable premium to be surcharged is the same percentage as is applied to an insured employer whose policy period coincided with the plan year.

(c) Except for a successor self-insured employer, each self-insured employer shall pay surcharges relating to only that portion of the policy years 1988 to 1992 in which the self-insured employer insured its workers' compensation obligations. The surcharge factor, as determined by the board under this chapter, must be adjusted to take into consideration the policy years or portions of policy years 1988 to 1992 in which a self-insured employer was self-insured.

The self-insured employer adjustment is determined as follows. The surcharge factor must be multiplied by the factor attributed to each of the years 1988 to 1992, as set forth in the table below. If a self-insured employer was insured only during a portion of a policy year, then the factor for that year is prorated based on the ratio of the number of days in the policy year during which the self-insured employer was insured to 365 days.

Policy Year	Factor
1988	28.48%
1989	30.70%
1990	23.26%
1991	11.55%
1992	6.01%

(d) The board shall administer the surcharges on self-insured employers as follows.

(i) The board shall issue surcharge billings to self-insured employers, pursue collection of all invoiced surcharges, initiate legal proceedings as necessary to collect surcharges and maintain records adequate to administer the surcharge process. The records of the board and of the bureau form the basis for identifying self-insured employers who are subject to this paragraph.

(ii) Annual surcharges may be paid in a single lump sum within 30 days of the receipt of the pool's invoice or in quarterly installments at the self-insured employer's option. The board shall issue a yearly invoice as soon as practicable after the self-insured employer's plan approval or renewal date and receipt of all necessary supporting information from the superintendent. Each invoice

must contain a schedule of dates when quarterly installments are due and clearly state the policy year or years for which the surcharge is imposed, the surcharge percentage multiplied by the factor applicable to each policy year and the amount of the surchargeable premium.

(iii) Each individual self-insured employer shall report final audited payrolls to the pool not later than 60 days after the end of each plan year and each self-insured employer that is a member of a self-insured group or the group's administrator, as the group may select, shall report final audited payrolls to the pool not later than 120 days after the end of each plan year and shall remit with the audit information any additional surcharges resulting from the audit.

(iv) Upon the request of a self-insured employer, including a successor self-insured employer or an administrator of a self-insurance group, the board may determine whether there was a factual inaccuracy in the information underlying a surcharge billing issued by the board for the fresh start period or whether the surcharge calculated by the board is consistent with the provisions of this subparagraph. The request must be filed within 180 days from the date on which the final payment is due and must be in writing, including a statement of the reason for the request and the amount, if known, of the alleged overcharge. If an appeal based upon an alleged overcharge is sustained, the board shall refund the overcharge, together with any investment earnings on those amounts. If a self-insured employer is aggrieved by the final action or decision of the board, or if the board does not act on the written request within 60 days, the self-insured employer may appeal to the superintendent within 60 days of such action or decision of the board. Notwithstanding a pending appeal, a self-insured employer must pay any surcharge billing issued by the board.

(e) Self-insured employers have the following obligations with respect to the surcharge process.

(i) As a condition of continuing authorization to self-insure, each self-insured employer and each group self-insurance administrator shall assist the board and the superintendent in the calculation, billing and collection of any applicable surcharge. The required assistance includes maintaining and providing, upon request of the board or the superintendent, actual premium history and all payroll and experience information necessary to calculate self-insured employer premiums, as specified in this subparagraph. Information provided by the self-insured employer is subject to audit by the pool and the superintendent at any time and self-insured employers shall provide to the pool, or its designee, and to the superintendent full and complete access to all books and records relating in any way to the audit. Group self-insurance administrators shall give prompt notice to the superintendent of any changes in group membership.

(ii) Information provided by self-insured employers to the board pursuant to this paragraph is confidential. The board shall protect the confidentiality of all self-insured employer information in its possession, whether the information is obtained directly from the self-insured employer or from the superintendent or a group administrator. All information relating to a self-insured employer provided pursuant to this paragraph and in the possession of the board or superintendent continues to be confidential until that information is destroyed.

(iii) A self-insurance group may act as the collection agent for its members. Any group so electing shall notify the board. The board shall bill the group on a consolidated basis. The group shall remit its entire quarterly payment to the board within 30 days after receiving the invoice, whether or not any members remain in default and notify the board and the superintendent of any delinquency.

(iv) Each self-insured employer shall make provisions for possible surcharges in the normal course of op-

erations and pay the full amount of any surcharge installment within 30 days after receiving an invoice from the board or the self-insured employer's self-insurance group. Late payments are subject to interest at the rate of 10% per annum.

(v) The failure of any self-insured employer or self-insurance group to comply with its duties under this paragraph constitutes grounds for suspension, revocation, termination of the option to self-insure, expulsion from a self-insurance group or other appropriate sanctions authorized under section 12-A, in addition to all procedures for the collection of past-due accounts otherwise available by law to the board or the governing body of the self-insurance group.

(f) The superintendent has the following responsibilities with respect to the surcharge process.

(i) The superintendent shall furnish to the board, on a monthly basis, a list of all self-insurance plan approvals, renewals and anniversaries that have occurred since the last report or for any other reason were not included in any previous report, including all approvals, terminations and membership changes for group self-insurers. For each employer listed, the superintendent shall provide all available information necessary for the board's imputed calculations under this paragraph, including: the date the new plan year began; the self-insurance group, if any, to which the self-insured employer belongs; the dates of coverage under each policy issued or renewed in policy years 1988 to 1992; the rating information for the current plan year, including estimated payroll by classification, premium rate for each classification, experience modification and other applicable rating adjustments; information relating to changes of ownership or control, changes of operations, changes of name or organizational structure; and other information necessary to determine successorship.

(ii) The superintendent shall supplement promptly the initial report

as necessary, including any revision to the self-insured employer's rating information on audit, any other additions or corrections to incomplete or inaccurate information provided in the initial report and the length of the plan year, if shorter than 12 months.

(g) A successor self-insured employer is subject to surcharge on the same basis as the predecessor employer would be if still actively doing business and self-insured. If a self-insured employer is the successor to more than one employer, then the successor employer's self-insured employer adjustment is the sum of each predecessor employer's self-insured employer adjustment multiplied by the ratio of the employer's surchargeable premium for the 12-month period immediately preceding the succession transaction to the combined surchargeable premium of all predecessor employers for that 12-month period.

(i) If one or more of the predecessor employers was insured at the time of the succession transaction, its self-insured employer adjustment is calculated pursuant to division (c), (h) or (i) as if it had become self-insured at the time of the succession transaction.

(ii) If business operations that were covered under a single workers' compensation policy or certificate of self-insurance authority are subsequently separately owned by virtue of any succession transaction, dissolution, reincorporation or other transaction or series of transactions, for purposes of this subparagraph each business is treated as a distinct employer, subject to surcharge as either an insured employer or a self-insured employer.

(iii) If substantial changes in operations during the 12-month period immediately preceding the succession transaction make the 12-month surchargeable premium an inappropriate measure of a predecessor employer's workers' compensation exposure prior to the transaction, the board may adopt procedures for calculating an annualized premium in a manner consistent with the intent of this subparagraph.

(h) A self-insured employer that secured its obligation to provide workers' compensation benefits under the Workers' Compensation Act through a self-insurance program approved by the superintendent for the entirety of that self-insured employer's policy years 1988 to 1992, in which the self-insured employer actually had an obligation to secure benefits under the Workers' Compensation Act is not subject to the surcharge.

(i) Except for any successor self-insured employer, self-insured employers that commence operations in the State on or after July 1, 1995 are subject to surcharge under this subparagraph on the same basis as self-insured employers that secured compensation under the Workers' Compensation Act by the purchase of an insurance policy throughout the entire fresh start period.

(3) An employer may, as specified in this subparagraph, prepay all of its surcharges for a period of 10 consecutive policy years or plan years. The 10-year period starts with the employer's first renewal date or plan year following July 1, 1995. Within 30 days after the inception of the first plan year or first policy renewal date following July 1, 1995, if the employer intends to exercise this option, the employer must file with the pool written notice electing to make a lump-sum payment of surcharges and shall include with the notice the employer's full lump-sum payment. If the election is not made within 30 days after the first day of the first plan year or policy year following July 1, 1995, the option expires and is no longer available. The pool shall implement such procedures for administering this option as the board determines necessary. An employer that elects this option shall reimburse the pool for its expenses of administering this option for that employer, including the cost of individually allocating those costs to individual employers, in accordance with billing procedures developed and implemented by the board. This subparagraph does not eliminate or limit the employer's liability to pay adjusted surcharges or supplemental surcharges pursuant to paragraph E or section 2394.

For purposes of this subparagraph, "lump-sum payment" is the surcharge for the first year multiplied by 10 and discounted to net present value using:

(a) A 5% discount rate;

(b) The first day of the first plan year or policy year starting on or after July 1, 1995; and

(c) An assumption that the surcharge for each of the 10 plan years or policy years would have been paid on the first day of each subsequent plan year or policy year.

See title page for effective date.

**CHAPTER 525**

**H.P. 602 - L.D. 806**

**An Act To Increase Access to Information Regarding Health Care Facility and Practitioner Payments**

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

**Sec. 1. 22 MRSA §8712, sub-§2**, as amended by PL 2009, c. 613, §8, is further amended to read:

**2. Payments.** The organization shall create a publicly accessible interactive website that presents reports related to payments for services rendered by health care facility facilities and practitioner payments for services rendered practitioners to residents of the State. The services presented must include, but not be limited to, imaging, preventative health, radiology and surgical services and other services that are predominantly elective and may be provided to a large number of patients who do not have health insurance or are underinsured. The website must also be constructed to display prices paid by individual commercial health insurance companies, 3rd-party administrators and, unless prohibited by federal law, governmental payors. Beginning October 1, 2012, price information posted on the website must be posted semiannually, must display the date of posting and, when posted, must be current to within 12 months of the date of submission of the information.

See title page for effective date.

**CHAPTER 526**

**H.P. 1297 - L.D. 1764**

**An Act To Reduce High-technology Tax Evasion and Theft**

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

**Sec. 1. 17-A MRSA §909** is enacted to read:

**§909. Possession or transfer of automated sales suppression device**

**1. A person is guilty of possession or transfer of an automated sales suppression device if:**

**A. The person knowingly possesses, purchases or owns any automated sales suppression device or phantom-ware. Violation of this paragraph is a Class D crime; or**

**B. The person knowingly manufactures, sells, installs or transfers any automated sales suppression device or phantom-ware or possesses, purchases or owns with the intent to sell, install or transfer any automated sales suppression device or phantom-ware. Violation of this paragraph is a Class C crime.**

**2. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.**

**A. "Automated sales suppression device" means a computer software program, which may be stored on magnetic or optical media, accessed through the Internet or accessed through any other means, that is designed or used to falsify the electronic records of an electronic cash register or other point-of-sale system, including, but not limited to, transaction data and transaction reports.**

**B. "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling or processing retail sales transaction data.**

**C. "Phantom-ware" means a hidden, preinstalled or installed programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual 2nd cash register or to eliminate or manipulate transaction records, which may or may not be preserved in digital formats, can represent either the true or the manipulated records of transactions in the electronic cash register and is intended to falsify the electronic records of an electronic cash register or other point-of-sale system.**

**D. "Transaction data" includes a description of items purchased by a customer; the price for each item; a taxability determination for each item; a segregated tax amount for each taxed item; the amount of cash or credit tendered; the net amount returned to the customer in change; the date and time of the purchase; the name, address and identification number of the vendor; and the receipt or invoice number of the transaction.**

**E. "Transaction report" means a report that includes, but is not limited to, sales, taxes collected.**

methods of payment and voided sales at an electronic cash register that is printed on cash register tape at the end of a day or shift or a report that includes every action at an electronic cash register that is stored electronically.

See title page for effective date.

## CHAPTER 527

### S.P. 586 - L.D. 1721

#### An Act To Improve the Method of Classifying Shellfish Harvesting Areas and Providing Notification of Changes

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

**Whereas,** this legislation addresses emergency rules, which are used by the Commissioner of Marine Resources to manage the status of shellfish resource areas for public health, as this rulemaking is considered cumbersome, time-consuming and often confusing to the public; and

**Whereas,** this legislation creates a more efficient and easily understood method by which openings and closings of shellfish resource areas are made, which will save considerable staff time; and

**Whereas,** this legislation will increase the speed at which some closed areas are opened; and

**Whereas,** this legislation will put shellfish harvesters back to work more quickly after closures; 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. 12 MRSA §6076, sub-§2,** as enacted by PL 1985, c. 784, §1, is amended to read:

**2. Responsibilities.** The department ~~shall be~~ is the state agency responsible for implementing the program. ~~The department may adopt rules under section 6172 as may be warranted to provide for adequate protection of the public health.~~

**Sec. 2. 12 MRSA §6172,** as amended by PL 2009, c. 528, §3, is further amended to read:

#### §6172. Contaminated or polluted flats

**1. Commissioner's powers.** The commissioner may examine the coastal waters and the intertidal zone and ~~adopt rules to close~~ classify coastal waters or intertidal zone areas as closed if the commissioner determines that any marine organisms are or may become contaminated or polluted ~~and may classify coastal waters or intertidal areas as open if the commissioner determines that the marine organisms no longer present a risk to public health.~~ The commissioner may ~~adopt or amend rules~~ classify areas through text descriptions and maps as the commissioner determines necessary, setting forth standards for closure of contaminated or polluted areas and for opening areas determined to no longer present a risk to public health, giving consideration to established state water quality standards, the most recently adopted federal sanitation standards, or other state or federal public health standards, the most recent generally accepted research data and known sources of pollution in any area, in a manner to protect the public health and safety while allowing reasonable use of the State's marine organisms.

**1-A. Federal waters.** The commissioner may ~~adopt rules establishing standards for closing~~ classify an area through text descriptions and maps to close waters under the jurisdiction of the Federal Government to the harvesting of a marine organism that the commissioner determines is or may become contaminated or polluted and to open waters under the jurisdiction of the Federal Government to the harvesting of marine organisms that the commissioner determines no longer present a risk to public health. ~~The commissioner may, in accordance with standards adopted under this subsection, by rule close waters under the jurisdiction of the Federal Government to the harvesting of a marine organism when the commissioner determines the organism is or may become contaminated or polluted. Rules adopted pursuant to this subsection must be in conformance with applicable federal law and regulations. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.~~

**1-B. Advisory council.** ~~Notwithstanding section 6171 A, the advice and consent of the Marine Resources Advisory Council is not required prior to adoption of a rule under this section.~~

**2. Emergency rules.** ~~The commissioner may adopt or amend rules under the emergency procedures, if immediate action is necessary to prevent the taking of polluted or contaminated marine organisms.~~

**3. Repeal.** ~~The commissioner shall repeal a rule closing an area or waters when the marine organisms are no longer contaminated or polluted or when the waters meet the sanitary standards set forth in any department rules. The commissioner may use emergency regulatory procedures to open areas or waters~~

that have been closed under emergency procedures of this section.

**4. Procedure.** ~~The procedures of subchapter H shall be used in adopting or amending rules authorized by this section.~~

**5. Private property; right of entry.** The commissioner's authority to enter privately owned land or buildings to carry out the purposes of this section is prescribed as follows:

A. The commissioner, upon presentation of credentials, may enter privately owned land at reasonable times with the owner's permission. If entry to the land is denied by the owner, the commissioner may seek a search warrant to inspect the land for sources of pollution under this section. A warrant may not be issued to search a domicile or residential building or ancillary structures; and

B. The commissioner may enter a privately owned domicile, building or structure only with the owner's permission and only in the presence of the owner or the owner's agent.

For the purposes of this subsection, "commissioner" means the Commissioner of Marine Resources or an employee of the department authorized by the commissioner to inspect coastal waters and intertidal zones for sources of pollution.

**6. Effective immediately upon signature.** The classification of an area as open or closed under this section is effective immediately upon signature by the commissioner or the commissioner's authorized designee.

**7. Notification.** Notification of the classification of a shellfish area as open or closed and any information concerning the opening or closing of a shellfish area under this section must be placed on the department's publicly accessible website and must be provided to the municipal office of each municipality in the affected area and to the Bureau of Marine Patrol.

**8. Enforcement.** Upon notification as described in subsection 7, marine patrol officers shall take action to prevent the taking of shellfish from a closed area, including the embargo of contaminated shellfish under section 6856, subsection 6 and the arrest or summons of any person taking or attempting to take shellfish from an area classified as closed unless that person holds a valid depuration certificate pursuant to section 6856, subsection 3.

**Sec. 3. 12 MRSA §6191, sub-§1,** as amended by PL 2007, c. 692, §1, is further amended to read:

**1. Procedures.** In adopting or amending any rule, ~~except as provided in section 6194,~~ the commissioner shall use the procedures required for rulemaking under the Maine Administrative Procedure Act,

Title 5, chapter 375, and the additional requirements of this subchapter.

**Sec. 4. 12 MRSA §6191, sub-§2, ¶C,** as amended by PL 2003, c. 248, §4, is further amended to read:

C. A rule, ~~except a rule authorized under section 6172,~~ may not be adopted or amended without the advice and consent of the advisory council, except as provided in section 6192, subsection 2.

**Sec. 5. 12 MRSA §6192, sub-§1, ¶A,** as amended by PL 2009, c. 528, §4, is further amended to read:

A. In an emergency adoption of a rule or amendment to a rule relating to the public health and safety, including rules authorized under ~~sections section 6171-A and 6172,~~ prior public notice and hearing is not required.

**Sec. 6. 12 MRSA §6192, sub-§3,** as amended by PL 2003, c. 248, §5, is further amended to read:

**3. Effective period.** Any emergency rule is effective only for 90 days, or any lesser period of time specified in the rule. After the expiration of the emergency period, the rule may ~~only~~ be adopted only as provided by section 6191. ~~This subsection does not apply to emergency rules authorized under section 6172, which are effective until repealed.~~

**Sec. 7. 12 MRSA §6192, sub-§4,** as amended by PL 2003, c. 248, §5, is further amended to read:

**4. Effective date.** Except as provided in this subsection, emergency rules become effective immediately upon publication in a newspaper of general circulation in the area of the State affected, provided as long as those rules are submitted to the Attorney General and filed with the Secretary of State as required under the Maine Administrative Procedure Act, Title 5, chapter 375, within the next business day following publication.

~~Notwithstanding any provisions of the Maine Administrative Procedure Act, an emergency rule authorized by section 6172, subsection 2 or 3 is effective immediately upon signature by the commissioner or the commissioner's authorized designee. Upon signing an emergency rule that closes or opens an area or waters to the taking of marine organisms, the commissioner or the commissioner's authorized designee shall give oral notice of that action to local governmental authorities and shall publish notice of a closure as soon as possible in a newspaper of general circulation in the area of the State affected. Marine patrol officers shall take action to prevent taking of shellfish from a closed area, including the embargo of contaminated shellfish under section 6856, subsection 6 and the arrest of any person violating the emergency rule.~~

**Sec. 8. 12 MRSA §6193**, as amended by PL 1999, c. 790, Pt. A, §11, is repealed.

**Sec. 9. 12 MRSA §6194**, as enacted by PL 2007, c. 692, §2, is repealed.

**Sec. 10. 12 MRSA §6621, sub-§§1 and 2**, as repealed and replaced by PL 2003, c. 452, Pt. F, §16 and affected by Pt. X, §2, are amended to read:

**1. Taking from closed areas.** A person may not:

A. Fish for or take shellfish from any area closed ~~by regulation pursuant to section 6172~~;

B. Fish for or take shellfish from any area closed ~~by regulation pursuant to section 6172~~ when the person has one or more prior convictions for violating paragraph A;

C. Possess, ship, transport or sell shellfish taken from any area closed ~~by regulation pursuant to section 6172~~; or

D. Possess, ship, transport or sell shellfish taken from any area closed ~~by regulation pursuant to section 6172~~ when the person has one or more prior convictions for violating paragraph C.

**2. Washing or holding in closed areas.** A person may not:

A. Wash, hold or keep shellfish in any area closed ~~by regulation pursuant to section 6172~~;

B. Wash, hold or keep shellfish in any area closed ~~by regulation pursuant to section 6172~~ when the person has one or more convictions for violating paragraph A;

C. Possess, ship, transport or sell shellfish washed, held or kept in any area closed ~~by regulation pursuant to section 6172~~; or

D. Possess, ship, transport or sell shellfish washed, held or kept in any area closed ~~by regulation pursuant to section 6172~~ when the person has one or more convictions for violating paragraph C.

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

Effective March 18, 2012.

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## CHAPTER 528

### H.P. 1199 - L.D. 1594

#### An Act To Clarify the Requirements of Income Withholding Orders

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

**Sec. 1. 19-A MRSA §2651**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

#### §2651. Income withholding

**1. Immediate income withholding.** ~~In any action Every support order established or modified under this Title or Title 22 in which a court establishes or modifies a support order, the court shall issue an is subject to~~ immediate income withholding order in accordance with the requirements of this subchapter, unless the court finds good cause or approves an alternative arrangement as provided in section 2657.

**2. Immediate income withholding; modification of orders.** Upon the motion of an obligee, an obligor or the department, the court shall modify a support order issued before October 13, 1993 to ~~include an~~ provide for immediate income withholding order.

**3. Immediate income withholding; implementation of orders.** ~~An immediate~~ Immediate income withholding order may be implemented by the department for a recipient of the department's support enforcement services, by a support obligee who does not receive the department's support enforcement services or by a support obligor. ~~An immediate~~ Immediate income withholding order is implemented by serving an attested copy of the support order, along with the notice required under section 2655, upon the obligor's payor of income. ~~Notwithstanding this subsection, the department may implement immediate income withholding by serving the notice required under section 2655 upon the obligor's payor of income without providing an attested copy of the support order.~~

**Sec. 2. 19-A MRSA §2652**, as amended by PL 1997, c. 537, §50 and affected by §62, is further amended to read:

#### §2652. Provisions of child support order

~~An immediate income withholding~~ Except as provided in section 2657, a child support order must provide ~~for the that the obligor is subject to immediate~~ income withholding from the obligor's income of amounts payable as child support, effective from the date of the support order, regardless of whether child support payments by the obligor are past due. The ~~withholding support~~ order must include:

**1. Amount withheld.** The amount of income to be withheld for payment of the obligor's current parental support obligation;

~~2. Department member number.~~ The obligor's department support enforcement member number, if applicable, and if known to the court;

~~3. Payor instructions.~~ An instruction to the payor that, upon receipt of a copy of the withholding order, the payor shall:

A. ~~Immediately begin to withhold the obligor's income when the obligor is usually paid;~~

B. ~~Send each amount withheld to the department at the address set forth in the order within 7 business days of the withholding; and~~

C. ~~Identify each amount sent to the department by indicating the department's support enforcement member number, if known;~~

**3-A. Notice about implementing income withholding.** Notice that immediate income withholding can only be implemented by serving an attested copy of the support order, along with the notice required under section 2655, upon the obligor's payor of income. Notwithstanding this subsection, the department may implement immediate income withholding by serving the notice required under section 2655 upon the obligor's payor of income without providing an attested copy of the support order.

**3-B. Instructions.** Instructions on where to obtain the payor notice required under section 2655;

**4. Notice regarding collection of arrearages.** A notice that ~~the income withholding order~~ may be used to collect arrearages in addition to current support;

**5. Limitation on withholding.** A notice that the amount of the withholding may not exceed the limitations imposed by 15 United States Code, Section 1673(b); and

**6. Fees.** A notice to the obligor and payor of income that the payor of income shall withhold and send to the department a fee of \$2 per week in addition to the amount withheld for child support.

**Sec. 3. 19-A MRSA §2654**, as amended by PL 1997, c. 669, §10, is further amended to read:

**§2654. Payor duty**

A payor of income to an obligor named in a support order subject to immediate withholding order issued under this subchapter shall comply with the provisions of the withholding order upon receipt of ~~a copy of the order~~ the notice required under section 2655. The balance of income due an obligor after withholding must be paid to the obligor on the day the obligor is usually paid. A payor may combine amounts withheld for transmittal to the department from more than one obligor if the portion attributable to each obligor is separately designated, except that the payor may not combine amounts if that action would result in an obligor's withheld income being sent to the department more than 7 business days from the date of withholding.

**Sec. 4. 19-A MRSA §2655**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**§2655. Payor notice**

The department shall ~~develop and~~ make available to the court and the public a payor notice, which also constitutes an income withholding order, that conforms to standard formats prescribed by the federal Secretary of Health and Human Services and complies with the requirements of the Social Security Act, Title IV-D and the regulations issued under that Act. ~~Whenever the department, an obligee or an obligor implements a withholding order issued under this subchapter, the party that implements the withholding order shall provide the obligor's payor of income with the payor notice at the time of service of the withholding order.~~

**Sec. 5. 19-A MRSA §2657, first ¶**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

The court may elect not to ~~issue an~~ render a child support order subject to immediate income withholding ~~order~~ under this subchapter if:

**Sec. 6. 19-A MRSA §2659**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**§2659. Duration of withholding**

**1. Ended or released.** ~~An immediate~~ Immediate income withholding under a support order is binding upon an obligor's payor of income until:

A. The court orders withholding ended;

B. If the withholding ~~order~~ was implemented by the obligee as a private withholding action, the obligee releases the payor from the terms of the order in writing; or

C. The department releases the payor from the terms of the support order in writing. The department shall issue a release to end immediate income withholding if the department is unable to forward funds to the obligee for 3 months, in which case the department shall return the funds to the obligor.

**2. Support paid; refund.** The department, or obligee if the obligee implemented the withholding ~~order~~ as a private action, shall issue promptly a release of the withholding provisions of the support order in all cases in which there is no longer a current support obligation and all past-due support has been paid. The department or obligee, as applicable, shall refund the obligor amounts withheld improperly because a release is not issued timely. An obligee is liable to the department for amounts received from the department that the obligee is not entitled to receive.

~~An income~~ Income withholding ~~order issued~~ ordered under this subchapter may not be released or ended if the obligor has a current parental support obligation or owes a debt for past-due support, unless the court finds

good cause or approves an alternative arrangement for payment of support in accordance with section 2657.

**Sec. 7. 19-A MRSA §2660**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**§2660. Priority of order**

Notwithstanding any other provision of law, ~~an~~ immediate income withholding ~~order issued~~ ordered under this subchapter has priority over any previously filed attachment, execution, garnishment or assignment of income that is not made for the purpose of enforcing or paying child or spousal support.

**Sec. 8. 19-A MRSA §2662, first ¶**, as amended by PL 1997, c. 669, §11, is further amended to read:

Upon service of ~~an immediate income withholding order~~ the notice required under section 2655, a payor is liable for any income that the payor knowingly fails to withhold and send to the department within 7 business days of the day on which the obligor is usually paid. The department, or obligee if the obligee implemented the withholding ~~order~~ as a private action, may maintain a civil action against the payor for the income the payor does not withhold and send to the department as required by the withholding support order and for the imposition of any of the civil penalties provided for in this section, plus attorney's fees and court costs.

**Sec. 9. 19-A MRSA §2662, sub-§4**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**4. Discrimination against obligors.** A payor who discharges from employment or refuses to employ an obligor or who takes disciplinary action against an obligor employed by the payor or who otherwise discriminates against the obligor because of the existence of a support order or an income withholding order or the obligations imposed upon the payor by the an order is subject to a civil penalty not to exceed \$5,000, payable to the State, to be recovered in a civil action. The payor is also subject to an action by the obligor for compensatory and punitive damages for those actions, plus attorney's fees and court costs.

**Sec. 10. 19-A MRSA §2664**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**§2664. Copies**

The clerk of the court shall send to the department ~~an attested~~ a copy of each order in which a child support obligation is established or modified ~~and an attested copy of the immediate income withholding order~~.

**Sec. 11. 19-A MRSA §2667**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**§2667. Payor immunity**

A payor of income who honors a child support order subject to income withholding, an income withholding order under this subchapter or a notice under section 2655 may not be held liable by the obligor for income withheld in compliance with the order.

**Sec. 12. 19-A MRSA §2668**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**§2668. Other remedies**

~~An income~~ Income withholding ~~order issued or~~ ordered under this subchapter is an additional remedy to enforce a support order and does not limit the use of other legal remedies that may be available for collection of child and spousal support.

**Sec. 13. 19-A MRSA §2671**, as enacted by PL 1997, c. 537, §52 and affected by §62, is repealed.

See title page for effective date.

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**CHAPTER 529**

**S.P. 585 - L.D. 1720**

**An Act To Increase the  
Membership of the Homeland  
Security Advisory Council**

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

**Sec. 1. 37-B MRSA §708, sub-§1**, as enacted by PL 2005, c. 634, §12, is amended to read:

**1. Membership.** The council is composed of the following ~~6~~ 9 members:

- A. The director;
- B. The Commissioner of Defense, Veterans and Emergency Management;
- C. The Commissioner of Public Safety;
- D. The Director of the ~~Bureau of Health~~ Maine Center for Disease Control and Prevention within the Department of Health and Human Services;
- E. The Chief of the State Police within the Department of Public Safety; ~~and~~
- F. A representative of the Governor;
- G. The Commissioner of Inland Fisheries and Wildlife or the commissioner's designee;
- H. The Commissioner of Marine Resources or the commissioner's designee; and

I. The Commissioner of Conservation or the commissioner's designee.

The director is the chair of the council. The Commissioner of Defense, Veterans and Emergency Management is the advisor of the council. Commissioner designees must be uniformed law enforcement personnel.

See title page for effective date.

**CHAPTER 530**

**H.P. 1289 - L.D. 1748**

**An Act To Conform the Maine Tax Laws for 2011 to the United States Internal Revenue Code**

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

**Whereas,** state tax law needs to be updated to conform to federal law before the 90-day period expires to avoid delay in the processing of income tax returns for 2011; and

**Whereas,** legislative action is immediately necessary to ensure continued and efficient administration of the state income tax and certain other state taxes; 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. 36 MRSA §111, sub-§1-A,** as amended by PL 2011, c. 1, Pt. P, §1 and affected by §2, is further amended to read:

**1-A. Code.** "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, ~~2010~~ 2011.

**Sec. 2. Application.** This Act applies to tax years beginning on or after January 1, 2011 and to any prior tax years as specifically provided by the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, 2011.

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

Effective March 18, 2012.

**CHAPTER 531**

**S.P. 534 - L.D. 1624**

**An Act To Lessen the Regulatory Burden on Medical Laboratories by Removing Outdated Requirements from the Maine Medical Laboratory Act**

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

**Sec. 1. 22 MRSA §2016, first ¶,** as amended by PL 1991, c. 528, Pt. J, §1 and affected by Pt. RRR and amended by c. 591, Pt. J, §1, is further amended to read:

Application must be made on a form prescribed by the department. Licenses must be issued to perform testing in one or more of the following categories or specialties: ~~Histocompatibility~~ Histocompatibility; microbiology, including subcategories bacteriology, mycology, parasitology, virology; immunology or serology, including subcategories syphilis and non-syphilis; chemistry, including subcategories routine, clinical microscopy or urinalysis and other, including toxicology; hematology, including coagulation; immunohematology, including subcategories blood group and Rh typing, Rh titers, cross matching, antibody detection and identification; pathology, including subcategories tissue, oral, diagnostic cytology; and radioassay. All applications must be accompanied by a license application fee. The application ~~must be notarized and~~ must contain the following information:

**Sec. 2. 22 MRSA §2031-A** is enacted to read:

**§2031-A. Itemized billing statements**

A medical laboratory that performs services under this Act shall send an itemized billing statement to the patient.

**Sec. 3. 22 MRSA §2032,** as repealed and replaced by PL 1975, c. 218, is repealed and the following enacted in its place:

**§2032. Specimens**

The following persons may collect or process specimens: licensed health care professionals; designees of licensed health care professionals acting within their scope of practice; and qualified medical laboratory personnel who are authorized by the director of the medical laboratory.

**Sec. 4. 22 MRSA §2033,** as repealed and replaced by PL 1975, c. 218, is amended to read:

**§2033. Rebates or fee splitting prohibited**

The owner or director of a laboratory licensed under this Act, either personally or through an agent,

~~shall~~ may not practice in any manner ~~which~~ that offers or implies to offer rebates to persons submitting specimens or other fee splitting inducements; or participate in any fee splitting arrangement. This applies to contents of fee schedules, billing methods or personal solicitation. The contractual provision of laboratory services for a fixed fee independent of the number of specimens submitted for such services is declared to be a violation of this section. ~~A copy of the itemized statement shall be sent to the patient.~~

See title page for effective date.

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## CHAPTER 532

### S.P. 598 - L.D. 1741

#### An Act To Streamline the Paperwork Requirements of the State's Forest Practices Laws

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

**Sec. 1. 12 MRSA §8878-A**, as enacted by PL 1997, c. 720, §13, is repealed.

**Sec. 2. 12 MRSA §8879**, as amended by PL 2005, c. 683, Pt. A, §15, is further amended to read:

**§8879. Report on the state of the State's forests**

The director shall publish a ~~biennial~~ report on the state of the State's forests every 5 years. The director must submit a copy of the report to the joint standing committee of the Legislature having jurisdiction over forestry matters by January 1st of ~~odd-numbered every 5 years beginning January 1, 1999~~ 2016.

**1. Content.** The report must describe the condition of the State's forests based on historical information and information collected and analyzed by the bureau for the ~~biennium~~ 5-year period. The report must provide an assessment at the state level of progress in achieving the standards developed pursuant to section 8876-A, including progress of the outcome-based forestry experiment authorized under section 8003, subsection 3, paragraph Q. The director shall also provide observations on differences in achieving standards by landowner class. The report must summarize importing and exporting of forest products for foreign and interstate activities. The director shall obtain public input during the preparation of the report through ~~public hearings and other~~ appropriate methods.

**1-A. Report on changes in ownership of forest land.** Using information received under Title 36, section 581-G, the director shall monitor changes in ownership of parcels of forest land that are 1,000 acres or greater in area within the municipalities of the State

and classified under the Maine Tree Growth Tax Law. Using information received under Title 36, sections 581-F and 581-G, the director shall monitor the number of parcels classified under the Maine Tree Growth Tax Law and the distribution of parcels by size. The ~~biennial~~ report must include information on the number of parcels, classified by size categories, for the organized and unorganized territories of the State. The information must be presented in a manner that facilitates comparison from year to year.

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

**2. Recommendations.** The report must include recommendations for state and private actions designed to address the needs identified in the assessment.

A. State action recommendations must be defined in terms of necessary policies, programs, staff and budgetary requirements to achieve specific goals.

B. Recommendations for actions on privately held forest lands may be developed separately for large, industrial ownerships and small, nonindustrial ownerships. These recommendations must be defined in terms of actions needed to achieve specific goals.

**Sec. 3. 12 MRSA §8881, sub-§12** is enacted to read:

**12. Timber harvesting.** "Timber harvesting" has the same meaning as in section 8868, subsection 4.

**Sec. 4. 12 MRSA §8883-B, sub-§1**, as enacted by PL 2003, c. 452, Pt. F, §44 and affected by Pt. X, §2, is amended to read:

**1. Notification required prior to harvest.** Unless exempted under subsection 6 or by rule, ~~prior to commencing harvesting operations the~~ a landowner or designated agent shall notify the bureau ~~of~~ prior to beginning timber harvesting.

~~A. A harvest operation of 50 cords or less; or~~

~~B. A commercial harvest operation of more than 50 cords.~~

When the ~~harvest~~ timber harvesting is occurring within a municipality, the bureau shall send a copy of the notification form to the municipal clerk.

**Sec. 5. 12 MRSA §8883-B, sub-§2, ¶G**, as enacted by PL 2003, c. 452, Pt. F, §44 and affected by Pt. X, §2, is amended to read:

G. An indication whether the land being harvested is taxed under the Maine Tree Growth Tax Law. ~~If the land being harvested is taxed under the Maine Tree Growth Tax Law, the notification~~

~~must include a statement, signed by the landowner, indicating that the harvest is consistent with the forest management and harvest plan required by Title 36, section 574-B, subsection 1. A licensed professional forester who has a fiduciary responsibility to the landowner may sign the statement required in this paragraph.~~

~~Failure to indicate that the harvest is consistent with the forest management and harvest plan constitutes a withdrawal from taxation under the Maine Tree Growth Tax Law of the land being harvested in a manner that is not consistent with the forest management and harvest plan. When such failure is indicated, the director shall notify the assessor for the jurisdiction in which the parcel is located that the land or a portion of the land no longer meets the requirements of Title 36, chapter 105, subchapter 2-A and must be withdrawn in accordance with Title 36, section 581;~~

**Sec. 6. 12 MRSA §8883-B, sub-§2, ¶H,** as enacted by PL 2003, c. 452, Pt. F, §44 and affected by Pt. X, §2, is amended to read:

H. Whether the land is being harvested to convert to another use within 2 years and, if so, what that use is to be;

~~If the land being converted to another use is taxed under the Maine Tree Growth Tax Law, notification of a change of land use under this subsection constitutes a withdrawal from taxation under the Maine Tree Growth Tax Law of that portion of land being converted to another use. When a change in land use is indicated, the director shall notify the assessor for the jurisdiction in which the parcel is located that the land or the portion of land no longer meets the requirements of Title 36, chapter 105, subchapter 2-A and must be withdrawn in accordance with Title 36, section 581;~~

**Sec. 7. 12 MRSA §8883-B, sub-§6,** as enacted by PL 2003, c. 452, Pt. F, §44 and affected by Pt. X, §2, is amended to read:

**6. Notification exemption.** The following activities are exempt from the notification requirement under this section:

- A. Activities ~~where~~ when forest products are harvested for an owner's own use and are not sold or offered for sale or used in the owner's primary wood-using plants;
- B. Precommercial silvicultural forestry activities; and
- C. Harvesting performed by the landowner within a 12-month period when the total area harvested on land owned by that landowner does not exceed: 2 acres.

~~(1) Two acres if the residual basal area of acceptable growing stock over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground is less than 30 square feet basal area per acre; or~~

~~(2) Five acres if the residual basal area of acceptable growing stock over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground is more than 30 square feet basal area per acre.~~

**Sec. 8. 12 MRSA §8883-B, sub-§6-A** is enacted to read:

**6-A. Alternative notifications.** The bureau may develop alternative notification forms and methods for reporting:

A. A timber harvesting operation 10 acres or less in area; and

B. Timber harvesting for the purpose of converting the land to another use when a person certified in erosion control practices by the Department of Environmental Protection is responsible for management of erosion and sedimentation control at the harvest site.

**Sec. 9. 12 MRSA §8883-B, sub-§7,** as enacted by PL 2003, c. 452, Pt. F, §44 and affected by Pt. X, §2, is amended to read:

**7. Penalties.** The following penalties apply to the failure to notify the bureau pursuant to this section. Each day of failure to notify is a separate offense.

~~A. Failure to notify the bureau of a harvest operation of 50 cords or less constitutes a civil violation for which a fine of not more than \$50 may be adjudged.~~

~~B. Providing inaccurate information on a notification form for a harvesting operation of 50 cords or less is a civil violation for which a fine of not more than \$50 may be adjudged.~~

C. Failure to notify the bureau of a ~~commercial harvest~~ timber harvesting operation of ~~more than 50 cords~~ constitutes a civil violation for which a fine not to exceed \$1,000 for each occurrence may be adjudged and for which immediate cessation of the operation may be ordered by the court. Continued operation after receiving an order to cease operation constitutes a civil violation for which a fine not to exceed \$1,000 for each day the operation continues may be adjudged.

D. Providing inaccurate information on a notification form for a ~~commercial~~ timber harvesting operation of ~~more than 50 cords~~ is a civil violation for which a fine of not more than \$1,000 for each occurrence may be adjudged.

**Sec. 10. 12 MRSA §8883-B, sub-§9** is enacted to read:

**9. Rulemaking.** No later than November 1, 2012, the bureau shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 11. 12 MRSA §8886, sub-§1**, as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

**1. Harvesting practices.** Utilizing a sample of forest landowner reports and any other appropriate survey methods, the director shall tabulate an annual survey of the methods of harvesting and the harvest practices employed. The information on harvesting ~~shall~~ **must** include, but ~~is not~~ **is** limited to, the silvicultural prescriptions employed, the estimated acreage of various harvest methods, including clear-cutting, ~~and~~ the extent of whole-tree harvesting of both solid and chipped wood, the number of clear-cuts over 75 acres in size, the total acres planted and the total acres pre-commercially thinned.

**Sec. 12. Directive to amend certain rules pertaining to certification of clearcuts and notification of timber harvesting.** No later than November 1, 2012, the Commissioner of Conservation shall amend the Department of Conservation Rule Chapter 20: Forest Regeneration and Clearcutting Standards to:

1. Remove the requirement that a licensed professional forester certify that regeneration standards have been met for Category 2 and Category 3 clearcuts;

2. Remove the requirement that a landowner file a report with the Department of Conservation, Bureau of Forestry along with certification that the regeneration standards have been met for Category 2 and Category 3 clearcuts; and

3. Remove that section of Rule Chapter 20 that establishes a process by which landowners file a notification with the bureau prior to beginning a timber harvesting operation. Notwithstanding the Maine Revised Statutes, Title 12, section 8867-A, revisions to Rule Chapter 20 in accordance with this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

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## CHAPTER 533

S.P. 592 - L.D. 1732

### An Act To Amend Certain Provisions of the Fish and Wildlife Laws

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

**Whereas**, certain changes to the laws governing inland fisheries and wildlife and snowmobiles need to be made before the current winter season is over; 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. 12 MRSA §10155, sub-§1**, as amended by PL 2011, c. 253, §3, is further amended to read:

**1. Membership.** Members of the board must be residents of the State. The board consists of the following 4 members:

A. Two employees of the department, appointed by the commissioner, one of whom may be a retired employee who has experience in taxidermy; and

B. ~~One~~ Two licensed ~~taxidermist~~ taxidermists with expertise in the art of taxidermy, appointed by the Governor; ~~and~~ .

~~C. One member of the general public with no affiliation to the art of taxidermy, appointed by the Governor.~~

**Sec. 2. 12 MRSA §10801, sub-§6, ¶A**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

**Sec. 3. 12 MRSA §11152, sub-§3, ¶A**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

**Sec. 4. 12 MRSA §11152, sub-§7**, as enacted by PL 2005, c. 142, §2, is amended to read:

**7. Special antlerless deer permit.** The commissioner shall issue a special antlerless deer permit to an eligible person who is ~~a resident and~~ is suffering from the loss of or the permanent loss of use of both lower extremities. The commissioner shall issue a permit upon application and after the applicant verifies that person's ambulatory disability with a letter signed by a physician ~~licensed in the State~~ confirming the person's condition. A person who is issued a special antlerless deer permit under this subsection may take an antlerless deer in any part of the State open to the taking of antlerless deer pursuant to subsection 3.

**Sec. 5. 12 MRSA §12503, sub-§4**, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B,

§249 and affected by Pt. B, §422, is further amended to read:

**4. Groups of students.** The commissioner may permit ~~student or youth groups of residents who attend high school or who are enrolled in special education courses for persons who are underprivileged, persons with handicaps or people with special learning needs~~ to fish without licenses for periods of not more than 3 days as long as the fishing activity is conducted as part of an educational program and is under the direct supervision of a teacher or instructor.

B. A permit holder:

- (1) May not allow fishing to go on for more than 3 days;
- (2) May not allow any fishing activity that is not conducted as part of an educational program; and
- (3) Shall provide direct supervision.

C. The following penalties apply to violations of this subsection.

- (1) A permit holder who violates paragraph B commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.
- (2) A person who violates paragraph B after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Each day a person violates paragraph B is a separate offense.

**Sec. 6. 12 MRSA §12763, sub-§3,** as amended by PL 2007, c. 651, §13, is further amended to read:

**3. Use of gill nets by department personnel.** Department personnel and persons under contract with the department may use gill nets pursuant to this subsection. When requested by another agency to undertake a gill netting project, the department must be reimbursed by that agency for all costs relating to the gill netting project.

A. ~~The department~~ Department personnel and persons under contract with the department may not use gill nets in inland waters ~~provided that unless:~~

- (2) Both ends of the net are marked with buoys that are clearly visible from a distance of 300 feet and that identify the department; and
- (3) The results of each netting are forwarded on a weekly basis to the office of the commissioner. The records of the results must be

available for public inspection at the office of the commissioner.

A person under contract with the department may not use a gill net under this section unless the use is at the direction of and under the supervision of the commissioner or the commissioner's designee.

A-1. The following penalties apply to violations of paragraph A.

- (1) A person who violates paragraph A commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.
- (2) A person who violates paragraph A after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

**Sec. 7. 12 MRSA §13051, sub-§2, ¶C,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. An agent is delinquent if that agent fails to forward to the commissioner funds collected by that agent by the date established in rules adopted under this subsection. Failure to remit the funds as provided in this subsection results in the following sanctions, in addition to any other provided by law.

- ~~(1) The commissioner shall charge interest on the amount owed at the rate of 18% a year for each day the agent is delinquent.~~
- (2) If the agent has not paid the amount owed by the 60th day after the agent becomes delinquent, the commissioner shall assess a surcharge of 5% of the principal amount owed.
- (3) If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one year, the commissioner shall:

- (a) Terminate the agency for the balance of the year; and
- (b) Order that the agency not be renewed for the next year;

**Sec. 8. 12 MRSA §13060,** as repealed and replaced by PL 2009, c. 340, §19, is repealed.

**Sec. 9. 12 MRSA §13060-A** is enacted to read:

**§13060-A. Temporary registration certificate**

**1. Twenty-day certificate.** The commissioner may issue temporary registration certificates to a registered dealer, who may, upon the sale or exchange of a boat, issue a temporary registration certificate to a new owner in order to allow the new owner to operate the boat for a period of 20 consecutive days after the date

of sale in lieu of a permanent number as required by this chapter. The fee for each temporary registration certificate is \$1.

**2. Penalty.** A person who operates a boat with an expired temporary registration certificate commits a civil violation for which a fine of not less than \$50 nor more than \$250 may be adjudged.

**Sec. 10. 12 MRSA §13105, sub-§1, ¶C,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

C. An agent is delinquent if that agent fails to forward to the commissioner funds collected by that agent by the date established in rules adopted under this subsection. Failure to remit the funds as provided in this subsection results in the following sanctions, in addition to any other provided by law.

(1) ~~The commissioner shall charge interest on the amount owed at the rate of 18% a year for each day the agent is delinquent.~~

(2) If the agent has not paid the amount owed by the 60th day after the agent becomes delinquent, the commissioner shall assess a surcharge of 5% of the principal amount owed.

(3) If an agent is delinquent for more than 150 days or is delinquent 3 or more times in one year, the commissioner shall:

(a) Terminate the agency for the balance of the year; and

(b) Order that the agency not be renewed for the next year.

**Sec. 11. 12 MRSA §13106-A, sub-§5, ¶A,** as enacted by PL 2003, c. 655, Pt. B, §394 and affected by §422, is amended to read:

A. A properly registered snowmobile may be operated on a public way only the distance necessary, but in no case to exceed ~~300~~ 500 yards, on the extreme right of the traveled way for the purpose of crossing, as directly as possible, a public way, sidewalk or culvert.

**Sec. 12. 12 MRSA §13156, sub-§2, ¶A,** as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is repealed.

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

Effective March 18, 2012.

## CHAPTER 534

### S.P. 563 - L.D. 1664

#### An Act To Amend the Election Laws

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

**Sec. 1. 21-A MRSA §23, sub-§7,** as amended by PL 2011, c. 342, §6, is further amended to read:

**7. Ballots and other election materials.** ~~The For 22 months following an election in which a candidate for a federal office is on the ballot, the clerk shall keep the ballots, envelopes and applications from voters who voted by absentee ballot and other election materials listed in section 698 other than the incoming voting list tabulation materials related to those ballots and challenge certificates, if any, in the clerk's office or other secure location under the control of the clerk for 22 months following the election, unless sooner released to the Secretary of State or required by the Secretary of State to be kept longer. Once released to the Secretary of State, they must be kept by the Secretary of State until any appeal period bearing on the validity of the election has expired. Notwithstanding this subsection, ballots used for municipal elections conducted under this Title, referenda elections or special legislative elections must be kept for 2 months.~~

**Sec. 2. 21-A MRSA §23, sub-§7-A,** as enacted by PL 2011, c. 342, §7, is amended to read:

**7-A. Incoming voting lists.** ~~The For 5 years following any election, the clerk shall keep the incoming voting lists in the clerk's office for 2 years following the election or other secure location under the control of the clerk.~~

**Sec. 3. 21-A MRSA §23, sub-§7-B** is enacted to read:

**7-B. Absentee envelopes and applications.** ~~For 2 years following any election, the clerk shall keep the absentee ballot envelopes, including the unopened envelopes containing rejected absentee ballots, the applications for absentee ballots and the list of voters who were issued absentee ballots in the clerk's office or other secure location under the control of the clerk.~~

**Sec. 4. 21-A MRSA §121, sub-§1-A,** as amended by PL 2005, c. 453, §12, is further amended to read:

**1-A. Identification and proof.** Registration applications taken by outside agencies must be transferred to the Secretary of State within 5 days of receipt. An applicant who attempts to register within 30 days of an election must be advised that the registrar might not receive the application before ~~that election~~

the deadline for mail or 3rd-person registration set forth in section 121-A, but that the applicant may register in person ~~before or on election day~~ no later than the deadline for in-person registration set forth in section 121-A.

Registration applications received by the Secretary of State from outside agencies 30 days or more before an election must be transferred to the appropriate registrar's office within 7 business days of receipt. Registration applications received by the Secretary of State from outside agencies less than 30 days before an election must be transferred to the appropriate registrar's office within 5 business days of receipt. Registration applications by mail or by a 3rd person must be received in the registrar's office by the close of business on the 21st day before election day in order for persons' names to appear on the incoming voting list for that election. The 20-day period before the election is the closed period for outside registrations. The registrar shall send the notice required by section 122 to all voters whose applications were received by mail or a 3rd person by the 21st day before election day no later than the 18th day before election day.

A person who registers ~~during the 20 days before election day or on election day~~ shall register in person and shall show proof of identity and residency. If satisfactory proof of identity and residency can not be provided to the registrar or deputy, the person's name is entered into the central voter registration system and placed on the incoming voting list and the person casts a challenged ballot. If the person shows satisfactory proof of identity and residency prior to voting on election day, the person's ballot is not challenged.

**Sec. 5. 21-A MRSA §121-A** is enacted to read:

**§121-A. Deadline for registration**

The deadline for receipt of voter registration applications submitted by mail or by a 3rd person is the close of business on the 21st day before election day. The deadline for in-person registration is the close of the polls on election day.

**Sec. 6. 21-A MRSA §122, first ¶**, as amended by PL 2003, c. 584, §3, is further amended to read:

A person may register ~~as a voter to vote in person~~ by appearing before the registrar by the registration deadline in section 121-A, proving that the person meets the qualifications of section 111, subsections 1 to 3, and filing an application provided by the registrar containing the information required by section 152 or 154, if applicable. Township residents may register as provided in section 156.

**Sec. 7. 21-A MRSA §125**, as amended by PL 1997, c. 436, §24, is further amended to read:

**§125. Notice of schedule**

The registrar shall publish the schedule established under section 122, subsection 6 or as changed by the municipal officers under subsection 8, in a newspaper having general circulation in the municipality ~~at least 7~~ 10 to 15 business days before the schedule becomes effective election day, except that, in municipalities with a population of 2,500 or fewer, ~~the publication of the time schedule by the registrar is discretionary rather than compulsory~~ may be done by another means the registrar considers sufficient to provide adequate notice to the residents of the municipality.

**Sec. 8. 21-A MRSA §129, sub-§3**, as amended by PL 1995, c. 459, §15, is further amended to read:

**3. Failure to notify.** If a voter fails to notify the registrar of a change of name or ~~change of address before the close of registrations~~ election day, the voter must appear before the registrar on election day and follow the procedure outlined in section 661 if the voter wishes to vote, unless the registrar has already made the correction in following the procedure prescribed by section 128. If the voter wishes to exercise the right to vote, the voter must vote using the ballot or ballots for the new polling place, if applicable, on election day.

**Sec. 9. 21-A MRSA §130**, as amended by PL 2005, c. 453, §22, is further amended to read:

**§130. Applications for voter registration**

A person who completes ~~an~~ a voter registration application for registration to vote, as provided in section 152, may mail the application or have the application delivered to the registrar in the person's municipality of residence before the ~~closed period for the acceptance of~~ deadline for mail or 3rd-person registrations in the person's municipality section 121-A, to be entered into the central voter registration system and placed on the incoming voting list prior to the next election; except that applications completed under section 122, subsection 5 may be delivered during the closed period for immediate placement on the incoming voting list.

**Sec. 10. 21-A MRSA §156, sub-§2**, as amended by PL 2001, c. 310, §12, is further amended to read:

**2. Voting.** The township voter may vote in the town in which the voter is registered in any election for offices of or questions concerning the unorganized territory in which the voter resides. The voter may not vote at a municipal election or on a liquor option question. If the voter registers in a town outside the voter's state representative district, state senatorial district, county or county commissioner district ~~or county~~, the voter may vote for the offices of Representative to the

Legislature, State Senator or any county office by using a ballot provided under section 606-A.

**Sec. 11. 21-A MRSA §196-A, sub-§1, ¶E,** as enacted by PL 2009, c. 564, §8, is amended to read:

E. The Secretary of State or a registrar may make available, upon the request of any other governmental or quasi-governmental entity, certain voter information for that entity's authorized use only. The following information may be provided in electronic form and free of charge: the voter's name, year of birth, residence address, mailing address, electoral districts, voter status, date of registration or date of change of the voter record if applicable, voter record number and any special designations indicating uniformed service voters, overseas voters or township voters. Data made available under this paragraph may not be used for solicitation or for purposes other than the governmental or quasi-governmental entity's authorized activities and may not be redistributed.

Authorized uses of the data by the Legislature include providing voter information to a Legislator for purposes of communicating with the Legislator's constituents and conducting legislative business.

**Sec. 12. 21-A MRSA §355, sub-§1,** as amended by PL 2011, c. 239, §2, is further amended to read:

**1. Consent.** The consent must contain a statement signed by the candidate that the candidate will accept the nomination of the ~~primary~~ general election. The Secretary of State shall provide a form on which the consent of the candidate is made that must include a list of the statutory and constitutional requirements of the office sought by the candidate. The statement may be printed as a part of the nomination petition.

**Sec. 13. 21-A MRSA §605-A, sub-§2, ¶D,** as enacted by PL 2011, c. 342, §15, is amended to read:

D. The Treasurer's Statement must be prepared according to Title 5, section 152 to accompany ballots containing any statewide bond issues. The Secretary of State ~~must include~~ shall supply written instructions ~~on to each referendum ballot that municipality, which may be provided to an absentee voter to~~ indicate where the voter may view the Treasurer's Statement on the Secretary of State's publicly accessible website.

**Sec. 14. 21-A MRSA §606-A,** as amended by PL 1995, c. 459, §45, is further amended to read:

**§606-A. Special provisions for out-of-district voters**

A voter who registers and votes under section 156 in a municipality outside ~~his~~ the voter's state represen-

tative district, state senatorial district, county or county commissioner district ~~or county~~, may vote for the offices of Representative to the Legislature, State Senator or any county office by using a ballot obtained under this section.

**1. Clerk to notify.** The clerk of a municipality in which voters have registered or enrolled under section 156 since the last statewide election shall notify the Secretary of State of those registrations and enrollments at least 60 days before ~~any~~ the next statewide election. For registrations and enrollments that occur less than 60 days before a statewide election, the clerk shall notify the Secretary of State immediately.

**2. Secretary of State to furnish ballots.** The Secretary of State shall review the number of votes cast at the last election of that type by persons registered and enrolled under section 156 when determining the number of ballots to be furnished to each municipality. These ballots must contain the names of the nominees or candidates for offices in the electoral divisions in which the voters registered under section 156 reside. After receiving notification from the clerk of township voter registrations or enrollments that occur less than 60 days before a statewide election, the Secretary of State shall furnish additional ballots to the municipality as needed. If there is not sufficient time to provide the municipality with the correct ballot style for a township voter, the Secretary of State shall instruct the clerk to provide a ballot to the voter in the manner prescribed by section 604.

**3. Voter to use proper ballot.** The election clerk in charge of the ballots at each voting place shall ~~insure~~ ensure that each voter, registered in that municipality under section 156, who resides in a different electoral division obtains and uses the proper ballot provided under this section ~~or a ballot provided in the manner prescribed by section 604.~~

**4. How furnished.** Ballots provided under this section ~~shall~~ must be furnished to voting places in accordance with section 606.

**5. County referendum.** If a township resident registers under section 156 in a municipality outside ~~his county commissioner district, or outside his~~ the resident's county in the case of a county referendum, the commissioners of ~~his~~ the resident's county shall perform the duties of the Secretary of State under this section and section 752, subsection 1, paragraph B. The clerk of a municipality in which these voters have registered or enrolled under section 156 shall notify the county commissioners of those registrations and enrollments ~~at least 120 days before any election for county commissioner or~~ for the determination of a county referendum question in the same manner as the notification to the Secretary of State under subsection 1.

**Sec. 15. 21-A MRSA §673, sub-§1, ¶A**, as amended by PL 2007, c. 455, §32, is further amended to read:

A. A voter or an election official may challenge another voter only upon personal knowledge or a reasonably supported belief that the challenged voter is unqualified. Only the following reasons for challenges may be accepted by the warden. The challenged person:

- (1) ~~Is not a registered voter;~~
- (2) Is not enrolled in the proper party, if voting in a primary election;
- (3) Is not qualified to be a registered voter because the challenged person:
  - (a) Does not meet the age requirements as specified in sections 111, subsection 2 and section 111-A;
  - (b) Is not a citizen of the United States; or
  - (c) Is not a resident of the municipality or appropriate electoral district within the municipality;
- (4) Registered to vote during the closed period or on election day and did not provide satisfactory proof of identity and residency to the registrar pursuant to section 121, subsection 1-A, except that only an election official may challenge for this reason;
- (5) Did not properly apply for an absentee ballot;
- (6) Did not properly complete the affidavit on the absentee return envelope;
- (7) Did not cast the ballot or complete the affidavit before the appropriate witness;
- (8) Communicated with someone as prohibited by section 754-A, subsection 1, paragraph B or subsection 3, paragraph B or D;
- (9) Did not have the ballot returned to the clerk by the time prescribed;
- (10) Voted using the name of another;
- (11) Committed any other specified violation of this Title; or
- (12) Voted using the wrong ballot for the appropriate electoral district or political party, if applicable.

**Sec. 16. 21-A MRSA §711, sub-§4**, as enacted by PL 2011, c. 342, §28, is amended to read:

**4. Authority to open tamper-proof ballot security containers.** After giving notice to the state chair of each political party, the Secretary of State may au-

thorize the municipal clerk, in the presence of one or more witnesses ~~and in the presence of the warden and an election clerk~~ from each of the major parties, to open the sealed tamper-proof ballot security containers as described in section 609 holding used ballots to retrieve the incoming voting list or a copy of any election return forms that were improperly sealed in the containers. If there is a recount requested for a local election that was held at the same time as a state election, the Secretary of State may authorize these election officials to open the sealed tamper-proof ballot security containers to remove any local ballots that were sealed in the containers of state ballots, except that any requested state recount must be held prior to such authorization. The Secretary of State also may authorize these election officials to review and make copies of tabulation sheets that would assist in properly reporting or correcting the results recorded on election night, as well as to review machine-tabulated ballots that were hand counted because they were not read by the tabulator or because they contained write-in votes, and to correct errors in the hand tabulation. The clerk must reseal the containers and secure them for the remainder of the time required for retention of ballots under section 23.

**Sec. 17. 21-A MRSA §753-B, sub-§2, ¶B**, as enacted by PL 2011, c. 399, §23, is amended to read:

B. To an immediate family member or to a 3rd person if the absentee ballot was requested by telephone or by electronic means;

**Sec. 18. 21-A MRSA §753-B, sub-§2, ¶D**, as enacted by PL 2011, c. 399, §23, is amended to read:

D. To any voter, immediate family member or 3rd person whose request was received in the municipal office after the 3rd business day before election day, unless the voter signs an application, designed by the Secretary of State, stating one of the following reasons for requesting an absentee ballot ~~on that day after the deadline~~:

- (1) Unexpected absence from the municipality during the entire time the polls are open on election day;
- (2) Physical disability ~~or an incapacity or illness that has resulted in the voter's being unable to leave home or a treatment facility~~; or
- (3) Inability to travel to the polls if the voter is a resident of a coastal island ward or precinct; or
- (4) An incapacity or illness that has resulted in the voter's being unable to leave home or a treatment facility.

**Sec. 19. 21-A MRSA §753-B, sub-§4**, as amended by PL 2011, c. 40, §1, is further amended to read:

**4. Duplicate ballot.** The clerk may issue a duplicate state absentee ballot to an applicant if the initially issued ballot has not already been marked and returned to the clerk, the applicant requests one by an acceptable method outlined in this subchapter and:

A. The applicant states good cause, including, but not limited to, loss of, spoiling of or damage to the first absentee ballot. Good cause does not include an applicant's decision to change the applicant's vote after the applicant has returned the ballot to the clerk; or

B. An absentee ballot for the applicant that was furnished to a designated 3rd person was not returned to the clerk's office within the time limit provided in subsection 3. If a ballot for an applicant is not returned to the clerk within that time limit, the clerk shall mail or hand deliver a ballot to that applicant and may not issue another ballot to the applicant except for good cause as provided in this subsection. This paragraph does not affect the deadline for delivery of absentee ballots under section 755.

The clerk may issue a 2nd state absentee ballot to a voter from whom the clerk has received a return envelope apparently containing a state absentee ballot when the State has provided the clerk with replacement ballots to reflect the removal of a candidate's name or the addition of a new candidate's name or the correction of an error or when the absentee ballot envelope has a defect in the affidavit that would cause the ballot to be rejected. When a 2nd state absentee ballot is issued to a voter under this section, the clerk must write the words "second ballot issued" on the return envelope.

**Sec. 20. 21-A MRSA §753-B, sub-§5**, as corrected by RR 2001, c. 2, Pt. A, §28, is amended to read:

**5. Alternate method of balloting by residents of certain licensed facilities.** The municipal clerk shall designate one or more times during the 30-day period prior to an election during which the municipal clerk shall be present in each licensed nursing home subject to the provisions of Title 22, chapter 405; licensed residential care facility subject to the provisions of Title 22, chapter 1664; and assisted housing program subject to the provisions of Title 22, chapter 1664, in the municipality for the purpose of conducting absentee voting by residents of these facilities. The licensed residential care facilities or assisted housing programs referred to in this subsection are those that are licensed as Level II facilities to have 6 or more beds. The clerk shall designate which areas in these facilities constitute the voting place, the voting booth

and the guardrail enclosure. Sections 681 and 682 apply to voting in these facilities within the areas designated by the clerk.

**Sec. 21. 21-A MRSA §777-A**, as amended by PL 2009, c. 563, §3, is further amended to read:

**§777-A. Registration and enrollment**

~~Uniformed~~ Notwithstanding the registration deadline in section 121-A, uniformed service voters or overseas voters may register or enroll at any time by completing a federal or state voter registration application form and filing it with the registrar or the Secretary of State in person, by mail or by electronic means authorized by the Secretary of State.

**Sec. 22. 21-A MRSA §781-A**, as amended by PL 2009, c. 563, §7, is further amended to read:

**§781-A. Absentee ballot application; procedure on receipt**

~~Upon~~ Notwithstanding the absentee ballot application deadline in section 753-B, subsection 2, paragraph D, upon receipt of an application or written request for an absentee ballot from a uniformed service voter or overseas voter that is accepted pursuant to section 753-A or section 783, the clerk or the Secretary of State shall immediately issue an absentee ballot and return envelope by the authorized means designated by the voter in the application. If the ballot is to be transmitted to the voter by mail, the clerk or the Secretary of State shall type or write in ink the name and the residence address of the voter in the designated section of the return envelope. The Secretary of State shall provide a return envelope that moves free of postage under federal law.

See title page for effective date.

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**CHAPTER 535**

**H.P. 1247 - L.D. 1695**

**An Act To Provide Additional  
In-store Space for Maine's  
Businesses by Removing  
License and Permit Posting  
Requirements**

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

**Sec. 1. 22 MRSA §1552-A**, as amended by PL 1997, c. 305, §1, is further amended to read:

**§1552-A. Production of license; notices**

**1. Production of licenses.** A licensee shall ~~publicly display~~ make available a copy of the license on the premises ~~and on each machine to which the license applies~~ for inspection by the commissioner, the com-

missioner's representatives and agents or authorized municipal officials.

**2. Display of prohibition against sales to juveniles.** All licensees shall post notice of the prohibition on tobacco sales to juveniles pursuant to section 1555-B. Notices must be publicly and conspicuously displayed in the licensee's place of business in letters at least 3/8 inches high. Signs required by this section must be provided at cost by the department. Any person who violates this subsection commits a civil violation for which a forfeiture of not less than \$50 nor more than \$200 may be adjudged for any one offense.

**Sec. 2. 22 MRSA §2167, first ¶,** as amended by PL 2003, c. 452, Pt. K, §15 and affected by Pt. X, §2, is further amended to read:

A person, firm, corporation or copartnership may not operate a food establishment; or a food salvage establishment or act as a salvage broker unless licensed for that purpose by the commissioner. In the case of retail food establishments, licenses issued must be ~~displayed in a place visible to~~ made available at the retail food establishment for inspection by customers or other persons using a ~~licensed~~ the retail food establishment.

**Sec. 3. 28-A MRSA §604,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

**§604. Production of licenses**

All licensees shall ~~publicly display~~ make available for inspection their licenses ~~on~~ at the premises to which ~~they~~ those licenses apply.

**Sec. 4. 30-A MRSA §3703** is enacted to read:

**§3703. Production of licenses or permits**

The municipal officers may not require a licensee or permittee to publicly display the licensee's or permittee's license or permit on the premises to which that license or permit applies. The municipal officers may require a licensee or permittee to make available for inspection the license or permit at the premises to which the license or permit applies.

**Sec. 5. 36 MRSA §1754-B, sub-§2,** as amended by PL 2009, c. 496, §17, is further amended to read:

**2. Registration certificates.** Application forms for sales tax registration certificates must be prescribed and furnished free of charge by the assessor. The assessor shall issue a registration certificate to each applicant that properly completes and submits an application form. A separate application must be completed and a separate registration certificate issued for each place of business. A registration certificate issued pursuant to this section is nontransferable and is not a license within the meaning of that term in the Maine Administrative Procedure Act. Each application for a registration certificate must contain a state-

ment as to the type or types of tangible personal property that the applicant intends to purchase for resale and the type or types of taxable services that the applicant intends to sell, and each retailer registered under this section must inform the assessor in writing of any changes to the type or types of tangible personal property that it purchases for resale or to the type or types of taxable services that it sells.

If the retailer maintains a place of business in this State, the retailer shall make available a copy of the registration certificate ~~must be conspicuously displayed at~~ issued for that place of business at that place of business for inspection by the assessor, the assessor's representatives and agents or authorized municipal officials. If the retailer does not have a fixed place of business and makes sales from one or more motor vehicles, each motor vehicle is deemed to be a place of business.

See title page for effective date.

**CHAPTER 536**

**S.P. 627 - L.D. 1815**

**An Act To Establish "The Dirigo March" as the Official March of the State**

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

**Sec. 1. 1 MRSA §210-A** is enacted to read:

**§210-A. State march**

The official march of the State is the march entitled "The Dirigo March," written by Leo Pepin.

See title page for effective date.

**CHAPTER 537**

**H.P. 1212 - L.D. 1603**

**An Act To Amend the Law Relating to Concealed Firearms Locked in Vehicles**

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

**Sec. 1. 26 MRSA §600, sub-§1,** as enacted by PL 2011, c. 393, §1, is amended to read:

**1. Firearms in vehicles.** An employer or an agent of an employer may not prohibit an employee who has a valid permit to carry a concealed firearm under Title 25, chapter 252 from keeping a firearm in the employee's vehicle as long as the vehicle is locked and the firearm is not visible. This subsection applies

to the State as an employer when a state employee's vehicle is on property owned or leased by the State. This subsection does not authorize an employee or state employee to carry a firearm in a place where carrying a firearm is prohibited by law. For purposes of this section, "state employee" means an employee of the State within the executive branch, the legislative branch or the judicial branch performing services within the scope of that employee's employment.

See title page for effective date.

## CHAPTER 538

### H.P. 1283 - L.D. 1738

#### An Act To Make Minor Adjustments to Laws Administered by the Department of Environmental Protection

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

**Sec. 1. 38 MRSA §341-H, sub-§1**, as enacted by PL 2011, c. 304, Pt. H, §14, is amended to read:

**1. Rule-making authority of the board.** Notwithstanding any other provision of this Title, and except as provided in this subsection, the board shall adopt, amend or repeal only those rules of the department designated as major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. The board shall also adopt, amend and repeal routine technical rules as necessary for the conduct of the department's board's business, including the processing of applications, the conduct of hearings and other administrative matters.

**Sec. 2. 38 MRSA §342, sub-§11-B**, as enacted by PL 2011, c. 304, Pt. H, §17, is amended to read:

**11-B. Revoke or suspend licenses and permits.** After written notice and opportunity for a hearing pursuant to Title 5, chapter 375, subchapter 4, the commissioner may act to revoke or suspend a license or recommend that the board modify or take corrective action on a license whenever the commissioner finds that:

- A. The licensee has violated any condition of the license;
- B. The licensee has obtained a license by misrepresenting or failing to disclose fully all relevant facts;
- C. The licensed discharge or activity poses a threat to human health or the environment;
- D. The license fails to include any standard or limitation legally required on the date of issuance;

E. There has been a change in any condition or circumstance that requires revocation or suspension of a license;

F. There has been a change in any condition or circumstance that requires a corrective action or a temporary or permanent modification of the terms of the license;

G. The licensee has violated any law administered by the department; or

H. The license fails to include any standard or limitation required pursuant to the federal Clean Air Act Amendments of 1990.

For the purposes of this subsection, "license" includes any license, permit, order, approval or certification issued by the department and "licensee" means the holder of the license.

**Sec. 3. 38 MRSA §342, sub-§11-C** is enacted to read:

**11-C. Modification or corrective action.** The commissioner may recommend that the board modify or take corrective action on a license in accordance with section 341-D, subsection 3.

**Sec. 4. 38 MRSA §344, sub-§9**, as enacted by PL 1989, c. 890, Pt. A, §27 and affected by §40, is amended to read:

**9. License or permit renewals, amendments, revisions, surrenders and transfers.** For purposes of this section, a request for a license or permit renewal, amendment, revision, surrender or transfer is considered an application that, unless specifically exempted by law, is subject to a decision by the department.

**Sec. 5. 38 MRSA §347-A, sub-§5**, as amended by PL 2007, c. 292, §12, is further amended to read:

**5. Enforcement.** All orders of the department and administrative consent agreements entered into by the department may be enforced by the Attorney General and or the department. If any order of the department is not complied with, the commissioner shall immediately notify the Attorney General.

**Sec. 6. 38 MRSA §347-A, sub-§6, ¶A**, as enacted by PL 1997, c. 794, Pt. A, §5, is amended to read:

A. In the case of an administrative consent ~~agreements~~ agreement, notice of the proposed agreement and the proposed agreement must be filed with the board and notice of the filing must be placed on the board's agenda posted on the department's publicly accessible website at least 30 days before the board commissioner takes any action on the agreement. The Attorney General and the department shall receive and consider, ~~and the department shall provide the board with summa-~~

~~ries of~~, any written comments relating to the proposed agreement.

**Sec. 7. 38 MRSA §348, sub-§1**, as amended by PL 2007, c. 292, §13, is further amended to read:

**1. General.** In the event of a violation of any provision of the laws administered by the department or of any order, regulation, license, permit, approval, administrative consent agreement or decision of the board or commissioner or decree of the court, as the case may be, the Attorney General or the department may institute injunction proceedings to enjoin any further violation thereof, a civil or criminal action or any appropriate combination thereof without recourse to any other provision of law administered by the department.

**Sec. 8. 38 MRSA §480-B, sub-§2-E**, as enacted by PL 2011, c. 64, §1, is amended to read:

**2-E. Footprint.** "Footprint" means the outline of a structure on the ground, except that for a building "footprint" means the outline that would be created on the ground by extending the exterior walls of a building to the ground surface.

**Sec. 9. 38 MRSA §480-Q, sub-§31**, as re-allocated by RR 2011, c. 1, §61, is amended to read:

**31. Minor expansions of structures in a coastal sand dune system.** Expansion of an existing residential or commercial building structure in a coastal sand dune system if:

- A. The footprint of the expansion is contained within an existing impervious area;
- B. The footprint of the expansion is no further seaward than the existing building structure;
- C. The height of the expansion is within the height restriction of any applicable law or ordinance; and
- D. The expansion conforms to the standards for expansion of a building structure contained in the municipal shoreland zoning ordinance adopted pursuant to article 2-B.

For purposes of this subsection, "structure" does not include a seawall, retaining wall, closed fence or other structure used to stabilize the shoreline or to prevent the movement of sand or water. For purposes of this subsection, expansion of an existing structure does not include a change from one type of structure to another.

**Sec. 10. 38 MRSA §480-Y, sub-§3, ¶¶A and C**, as enacted by PL 1995, c. 659, §1, are amended to read:

A. The pond, dams, inlets and outlets must be designed by a professional engineer to United States Natural Resources Conservation Service standards.

C. ~~The~~ For a pond that is constructed in a river, stream or brook, the pond outlet must be designed to passively discharge a minimum flow equal to inflow or the site-specific aquatic base flow, whichever is less, at all times. For a pond that is constructed adjacent to a river, stream or brook and that uses an inlet pipe or trench from the river, stream or brook, the inlet must be constructed to maintain the site-specific aquatic base flow. The site-specific aquatic base flow must be that specified by the department following consultation with the Department of Inland Fisheries and Wildlife, the United States Natural Resources Conservation Service and other qualified advisors during the site assessment.

**Sec. 11. 38 MRSA §480-Y, sub-§4, ¶A**, as enacted by PL 1995, c. 659, §1, is amended to read:

A. An application must be filed with the department and must include the following:

- (1) The application cover sheet, as provided by the department;
- (2) The United States Geological Survey topographical map with the boundaries of the farm and the pond site clearly marked;
- (3) A photograph of the stream at the proposed dam site;
- (4) A copy of the irrigation plan for the farm;
- (5) Site plans showing existing and proposed topography, stream channel location, existing wetland boundaries, maximum and normal pool elevation, normal pool elevation elevations for a pond in a river, stream or brook, dam footprints, pond inlet and outlet location locations, emergency spillway location, access roads, stockpile locations and buffer strips;
- (6) Cross sections through the dam and outlet structure, including proposed maximum pool elevation and normal pool elevation;
- (7) A plan to maintain minimum flow downstream, including any calculations used to create the plan;
- (8) A complete erosion control plan using practices contained in the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices" (1991) unless otherwise approved or required by the department. The erosion control plan must include a narrative with a sequence for implementing the plan, provisions to inspect and maintain erosion controls and a site plan showing locations of control measures. The plan must include provisions for maintaining a dry construction site. These provisions may

consist of construction during a no-flow period, a temporary cofferdam or a stream diversion. The erosion control plan must also include provisions for dewatering and disposal of dredged and excavated soil material. The disposal of soil material dredged from the stream must comply with the requirements of the State's solid waste management rules;

(9) Test pit logs and test results from a minimum of 2 test pits dug in the footprint of the dam and results of tests done under the direction of a professional engineer on the dam fill material; and

(10) A copy of the property deed, lease, purchase and sale agreement or other legal document establishing that the applicant has title or right to or interest in the property proposed for pond development.

All design materials used to show that the dam design meets the standards of the general permit must be signed and stamped by a professional engineer.

**Sec. 12. 38 MRSA §570-E**, as amended by PL 1999, c. 334, §7, is repealed.

**Sec. 13. 38 MRSA §590-A, first ¶**, as enacted by PL 1987, c. 279, is amended to read:

The term of air emission licenses is 5 10 years, except that the term of licenses for air contaminant sources subject to the state permitting provisions of 40 Code of Federal Regulations, Part 70 is 5 years and licenses issued pursuant to rules adopted pursuant to section 580-B, subsection 4, paragraph D have no term. The board may establish, by rule, shorter license terms for the following source categories as it ~~deems~~ considers necessary to protect the public health, safety and welfare:

**Sec. 14. 38 MRSA §1400** is enacted to read:

**§1400. Rules**

Subject to Title 5, chapter 375, the department may adopt rules as it determines necessary to implement this chapter. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 15. Coastal sand dune rulemaking.**

The Department of Environmental Protection may adopt rules allowing for the reconstruction of an existing structure in a frontal dune if:

1. The frontal dune is protected by a seawall;
2. The structure to be reconstructed existed prior to June 8, 2006;
3. The reconstructed structure is elevated on posts as provided for in rules adopted by the department;

4. Any relocation of the reconstructed structure into the frontal dune is minimized to the extent practicable; and

5. The project meets the standards for all projects contained in the department's rules relating to coastal sand dunes.

Notwithstanding the Maine Revised Statutes, Title 38, section 480-AA, the initial rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A and may be adopted by the Commissioner of Environmental Protection in accordance with Title 38, section 341-H, subsection 2. Any amendments to the rules adopted pursuant to this section are major substantive rules and may be adopted by the Board of Environmental Protection in accordance with Title 38, section 341-H, subsection 1.

**Sec. 16. Transition.** An air emission license issued for a term of 5 years pursuant to the Maine Revised Statutes, Title 38, section 590-A that is in effect on the effective date of this Act is effective for 10 years upon renewal of that license.

See title page for effective date.

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**CHAPTER 539**

**S.P. 584 - L.D. 1719**

**An Act To Update the Powers and Duties of the Bureau of Maine Veterans' Services**

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

**Sec. 1. 37-B MRSA §504, sub-§4, ¶G** is enacted to read:

G. The interment of an eligible veteran or eligible dependent is permanent and final except that the director may allow disinterment as long as there is no cost to the State.

**Sec. 2. Report on coordination of efforts to identify veterans who may be entitled to additional benefits.** No later than February 15, 2013, the office for family independence within the Department of Health and Human Services and the Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services shall report to the joint standing committee of the Legislature having jurisdiction over veterans matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the coordination of their efforts to identify veterans who have received or are receiving Medicaid benefits and may be entitled to, but are not receiving, federally funded benefits from the United States Department of

Veterans Affairs. The report may include recommendations for legislation to assist in this veteran identification effort. The joint standing committee of the Legislature having jurisdiction over veterans matters is authorized to report out a bill to the First Regular Session of the 126th Legislature.

See title page for effective date.

## CHAPTER 540

### S.P. 550 - L.D. 1651

#### An Act To Clarify Health Insurance Benefits for Disabled Participants in the Maine Public Employees Retirement System

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

**Whereas,** changes made during the First Regular Session of the 125th Legislature to cost-sharing provisions for the health insurance plan covering retired state employees require individuals who retire after January 1, 2012 and before normal retirement age to pay 100% of the group health plan premium; and

**Whereas,** these changes have created unanticipated consequences affecting individuals receiving disability retirement benefits who are automatically transferred to regular retirement benefits when those regular retirement benefits equal or exceed the disability retirement benefits; and

**Whereas,** individuals who are transferred from disability status to regular retirement status prior to normal retirement age may be required to pay the full cost of the health insurance plan; and

**Whereas,** such costs would be a significant burden for disabled retirees; and

**Whereas,** this situation must be remedied 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 §285, sub-§7, ¶L,** as enacted by PL 2011, c. 380, Pt. V, §1 and affected by §7, is amended to read:

L. The provisions of paragraphs I and J do not apply to those individuals who are receiving or who have received retirement benefits under section 17907 or section 17929.

**Sec. 2. 20-A MRSA §13451, sub-§3,** as amended by PL 2011, c. 380, Pt. W, §3 and affected by §5, is further amended to read:

**3. Payment by State.** The State shall pay a percentage of the retired teacher members' share of this insurance according to the following schedule:

- A. Thirty percent until July 1, 2002;
- B. Thirty-five percent from July 1, 2002 to July 31, 2003;
- C. Forty percent from August 1, 2003 to December 31, 2005; and
- D. Forty-five percent after December 31, 2005.

Except for individuals who are receiving or who have received retirement benefits under Title 5, section 17907 or ~~17192~~ 17929, for a teacher who retires after July 1, 2012, the State shall begin paying the percentage of the retired teacher member's share pursuant to this subsection when the retiree reaches normal retirement age.

For the fiscal years ending June 30, 2012 and June 30, 2013, the State's total cost for retired teachers' health insurance premiums is capped at the fiscal year 2010-11 funding level.

**Sec. 3. Retroactivity.** This Act is retroactive to January 1, 2012.

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

Effective March 20, 2012.

## CHAPTER 541

### H.P. 1240 - L.D. 1688

#### An Act To Clarify the Status of Patients Held under Involuntary Commitment Applications

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

**Sec. 1. 15 MRSA §393, sub-§4-A,** as enacted by PL 2007, c. 670, §9 and affected by §24, is amended to read:

**4-A. Application for relief.** Except as otherwise provided, a person subject to the federal prohibition against possession of firearms pursuant to 18 United States Code, Section 922(g)(4) as a result of being

adjudicated a mental defective or committed to any psychiatric hospital pursuant to Title 34-B, section 3863 and who has not been committed to a psychiatric hospital pursuant to an order of the District Court pursuant to Title 34-B, section 3864 may, after the expiration of 5 years from the date of final discharge from commitment, apply to the commissioner for relief from the disability.

Relief is not available under this subsection for a person found not criminally responsible by reason of insanity or incompetent to stand trial in a criminal case or a person adjudged by a Probate Court to lack the capacity to contract or manage the person's own affairs.

A. An application under this subsection must be on a form developed by the commissioner. The application must include the applicant's full name; all aliases; date and place of birth; place of legal residence; occupation; make and model of the firearm sought to be possessed; reason for the request; date, place and docket number of commitment; name of institution to which applicant was committed; names of providers that provided mental health treatment for the applicant; date of discharge from commitment; release for all mental health records; and any other information determined by the commissioner to be of assistance. The application must be accompanied by certified or attested copies of the commitment from which the applicant seeks relief and the report of an independent psychologist or psychiatrist licensed to practice in this State specifically addressing the factors set forth in paragraph E. The commissioner may establish a roster of psychologists and psychiatrists qualified and interested in doing these evaluations. The psychologist or psychiatrist must be available for cross-examination. The psychologist or psychiatrist listed on the roster is an employee for the purposes of the Maine Tort Claims Act for evaluations under this paragraph.

B. The commissioner has the independent authority to establish the following, to be paid by the applicant:

- (1) Application fee; and
- (2) Fees for evaluations required by paragraph A.

C. Upon receipt of a completed application, the commissioner shall notify persons who received notice of the commitment pursuant to Title 34-B, section 3864, subsection 3, paragraph A, subparagraph (2) and the district attorney, chief of police and sheriff in the municipality and county where the applicant resides of the filing of the application, with a request to provide to the commissioner any information relevant to the factors in paragraph E.

D. Upon receipt of a completed application, the commissioner shall review the application and determine whether the person has made a prima facie showing of the elements of paragraph E. If the commissioner determines that the person has made a prima facie showing, the commissioner shall schedule a hearing.

E. The burden of proof is on the applicant to prove, by clear and convincing evidence, that the circumstances that led to the involuntary commitment to a hospital have changed, that the applicant is not likely to act in a manner dangerous to public safety and that granting the application for relief will not be contrary to the public interest.

F. If the commissioner finds by clear and convincing evidence that the circumstances that led to the involuntary commitment have changed, that the applicant is not likely to act in a manner dangerous to public safety and that granting the application for relief will not be contrary to the public interest, the commissioner may grant relief.

G. Notwithstanding any other provision of law, and except as indicated in this paragraph, all applications for relief pursuant to this subsection and documents made a part of the application, refusals and any information of record collected by the commissioner during the process of determining whether an applicant qualifies for relief are confidential and may not be made available for public inspection or copying unless:

- (1) The applicant waives this confidentiality in writing or on the record of any hearing; or
- (2) A court of record so orders. Proceedings relating to the grant or denial of relief are not public proceedings under Title 1, chapter 13.

The commissioner shall make a permanent record, in the form of a summary, of the final decision regarding each application. The summary must include the name of the applicant and indicate whether the application for relief was granted or denied. The information contained in this summary is available for public inspection.

H. An applicant may appeal the denial of an application for relief under this subsection within 30 days of receipt of the written notice of decision by filing a complaint in the District Court for de novo review in the district where the Department of Public Safety has its principal office. Hearings are closed unless otherwise agreed to by the applicant. A party aggrieved by a decision of the District Court may not appeal as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

**Sec. 2. 34-B MRSA §3863, sub-§9** is enacted to read:

**9. Limitation.** Admission to a psychiatric hospital on an emergency basis under the provisions of this section is not commitment to a psychiatric hospital.

**Sec. 3. 34-B MRSA §3873-A, sub-§7, ¶B,** as enacted by PL 2009, c. 651, §29, is amended to read:

B. ~~Issue an order of emergency commitment~~ Endorse an application for admission to a psychiatric hospital under section 3863 conditioned on receiving a certificate from a medical practitioner that the patient has failed to comply with an essential requirement of the treatment plan; and

See title page for effective date.

**CHAPTER 542**

**S.P. 640 - L.D. 1845**

**An Act To Implement the Recommendations of the Department of Health and Human Services and the Maine Developmental Disabilities Council Regarding Respectful Language**

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

**Whereas,** treating a person with intellectual disabilities with respect, including in the language that is used in referring to the person, to the system of delivering services and to the services, offices and personnel of the Department of Health and Human Services, is important to the dignity of the person and should be accomplished at the earliest possible time; 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. 4 MRSA §152, sub-§4,** as corrected by RR 2001, c. 2, Pt. A, §2, is amended to read:

**4. Exclusive jurisdiction.** Original jurisdiction, not concurrent with that of the Superior Court, of men-

tal health commitment hearings under Title 34-B, chapter 3, subchapter 4, ~~mental retardation intellectual disability~~ certification hearings under Title 34-B, chapter 5, habitual truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted and small claims actions under Title 14, chapter 738;

**Sec. A-2. 5 MRSA §1642, sub-§6,** as enacted by PL 1985, c. 96, is amended to read:

**6. Social service.** "Social service" means any children's, youth, adult or elderly service and alcoholism, community action, developmental disability, drug or substance abuse, home-heating assistance, juvenile, mental health, ~~mental retardation intellectual disability~~, older Americans, poverty, rehabilitation, transportation, weatherization or other social service that may be defined in the future and that is operated by the departments or the division utilizing state-administered funds, including related health and medical services and income supplementation programs.

**Sec. A-3. 5 MRSA §4553-A, sub-§1, ¶B,** as enacted by PL 2007, c. 385, §3, is amended to read:

B. Without regard to severity unless otherwise indicated: absent, artificial or replacement limbs, hands, feet or vital organs; alcoholism; amyotrophic lateral sclerosis; bipolar disorder; blindness or abnormal vision loss; cancer; cerebral palsy; chronic obstructive pulmonary disease; Crohn's disease; cystic fibrosis; deafness or abnormal hearing loss; diabetes; substantial disfigurement; epilepsy; heart disease; HIV or AIDS; kidney or renal diseases; lupus; major depressive disorder; mastectomy; ~~mental retardation intellectual disability~~; multiple sclerosis; muscular dystrophy; paralysis; Parkinson's disease; pervasive developmental disorders; rheumatoid arthritis; schizophrenia; and acquired brain injury;

**Sec. A-4. 5 MRSA §12004-I, sub-§66,** as amended by PL 2003, c. 417, §1 and affected by §4, is further amended to read:

**66.**

Mental Health and <del>Mental Retardation Intellectual Disability</del>	Maine Developmental Disabilities Council	Expenses Only	34-B MRSA §17001
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**Sec. A-5. 5 MRSA §12004-J, sub-§15,** as enacted by PL 2007, c. 356, §3 and affected by c. 695, Pt. D, §3, is amended to read:

15.

Mental Health and <del>Mental Retardation</del> <u>Intellectual Disability</u>	Maine Developmental Services Oversight and Advisory Board	Per diem for noncompensated members, as specified by board rule or policy, and expenses for all members of the board	34-B MRSA §1223
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**Sec. A-6. 5 MRSA §2005, sub-§6**, as amended by PL 2007, c. 116, §§3 and 4, is further amended to read:

**6. Contracts and licensing.** Through the director:

A. Administer all contracts with community service providers for the delivery of alcohol and drug abuse services;

A-1. Administer all contracts with community service providers for the delivery of gambling addiction counseling services; and

B. Establish operating and treatment standards and inspect and issue certificates of approval for approved treatment facilities, drug abuse treatment facilities or programs, including residential treatment centers, community-based service providers and facilities that are private nonmedical institutions pursuant to section 20024 and subchapter 5.

The commissioner may delegate contract and licensing duties under this subsection to the Department of Health and Human Services, the Department of Corrections or other divisions of the department as long as that delegation ensures that contracting for alcohol and other drug abuse services provided in community settings are consolidated within the Department of Health and Human Services, that contracting for alcohol and other drug abuse services delivered within correctional facilities are consolidated within the Department of Corrections and that contracting for alcohol and other drug abuse services delivered within mental health ~~and mental-retardation~~ facilities or as a component of programs serving persons with intellectual disabilities or autism are consolidated within the department.

The commissioner may not delegate contract and licensing duties if that delegation results in increased administrative costs.

The commissioner may not issue requests for proposals for existing contract services until the commissioner has adopted rules in accordance with the Maine Administrative Procedure Act to ensure that the reasons for which existing services are placed out for bid and the performance standards and manner in which compliance is evaluated are specified and that any

change in provider is accomplished in a manner that fully protects the consumer of services.

The commissioner shall establish a procedure to obtain assistance and advice from consumers of alcohol and other drug abuse services regarding the selection of contractors when requests for proposals are issued;

**Sec. A-7. 12 MRSA §10853, sub-§7, ¶A**, as repealed and replaced by PL 2005, c. 397, Pt. C, §10, is amended to read:

A. Clients of the Department of Health and Human Services who reside in licensed facilities for persons with ~~mental-retardation~~ intellectual disabilities or autism or licensed facilities for the treatment of mental illness;

**Sec. A-8. 15 MRSA §101-D, sub-§4**, as enacted by PL 2009, c. 268, §3, is amended to read:

**4. Commitment for observation.** The court may commit the defendant to the custody of the Commissioner of Health and Human Services for placement in an appropriate institution for the care and treatment of people with mental illness or ~~mental-retardation~~ in an appropriate residential program that provides care and treatment for persons who have intellectual disabilities or autism, as set forth in this subsection.

A. If the State Forensic Service determines that observation of the defendant in an appropriate institution for the care of people with mental illness or ~~mental-retardation~~ in an appropriate residential program that provides care and treatment for persons who have intellectual disabilities or autism will materially enhance its ability to perform an evaluation ordered pursuant to subsection 1, 2, 3 or 9, the State Forensic Service shall so advise the court. The State Forensic Service may make this determination based upon consultation with the defendant's attorney and the attorney for the State and the court and upon such other information as it determines appropriate. In addition, the State Forensic Service may include such a determination in a report to the court that recommends further evaluation of the defendant.

B. Upon a determination by the State Forensic Service under paragraph A, a court having jurisdiction in a criminal case may commit the defendant to the custody of the Commissioner of Health and Human Services for placement in an appropriate institution for the care and treatment of people with mental illness or ~~mental-retardation~~ in an appropriate residential program that provides care and treatment for persons who have intellectual disabilities or autism for observation for a period not to exceed 60 days. If the State Forensic Service requires additional time for observation, it shall communicate its request and the reasons for that request to the court and to counsel for the par-

ties. The court shall accommodate a party's request to be heard on the issue of whether an extension should be granted and may extend the commitment for up to an additional 90 days. Unless the defendant objects, an order under this paragraph must authorize the institution or residential program where the defendant is placed by the Commissioner of Health and Human Services to provide treatment to the defendant. When further observation of the defendant is determined no longer necessary by the State Forensic Service, the commissioner shall report that determination to the court and the court shall terminate the commitment.

C. If the court has provided for remand to a correctional facility following the commitment under paragraph B, the correctional facility shall execute the remand order upon advice from the Commissioner of Health and Human Services that commitment is determined no longer necessary.

**Sec. A-9. 15 MRSA §101-D, sub-§5, ¶A**, as amended by PL 2011, c. 464, §1, is further amended to read:

A. Commit the defendant to the custody of the Commissioner of Health and Human Services to be placed in an appropriate institution for the care and treatment of people with mental illness or ~~mental retardation~~ in an appropriate residential program that provides care and treatment for persons who have intellectual disabilities or autism for observation, care and treatment. At the end of 30 days or sooner, and again in the event of recommitment, at the end of 60 days and one year, the State Forensic Service shall forward a report to the Commissioner of Health and Human Services relative to the defendant's competence to stand trial and its reasons. The Commissioner of Health and Human Services shall without delay file the report with the court having jurisdiction of the case. The court shall without delay set a date for and hold a hearing on the question of the defendant's competence to stand trial and receive all relevant testimony bearing on the question. If the court determines that the defendant is not competent to stand trial, but there does exist a substantial probability that the defendant will be competent to stand trial in the foreseeable future, the court shall recommit the defendant to the custody of the Commissioner of Health and Human Services to be placed in an appropriate institution for the care and treatment of people with mental illness or ~~mental retardation~~ in an appropriate residential program that provides care and treatment for persons who have intellectual disabilities or autism for observation, care and treatment. When a person who has been evaluated on behalf of the court by the State Forensic Service is committed into the custody of the Commissioner of Health and

Human Services under this paragraph, the court shall order that the State Forensic Service share any information that it has collected or generated with respect to the person with the institution or residential program in which the person is placed. If the defendant is charged with an offense under Title 17-A, chapter 9, 11 or 13 or Title 17-A, section 506-A, 802 or 803-A and the court determines that the defendant is not competent to stand trial and there does not exist a substantial probability that the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and, unless the defendant is subject to an undischarged term of imprisonment, order the Commissioner of Health and Human Services to commence involuntary commitment proceedings pursuant to Title 34-B, chapter 3, subchapter 4 or chapter 5, subchapter 3. If the defendant is charged with offenses not listed in the previous sentence and the court determines that the defendant is not competent to stand trial and there does not exist a substantial probability that the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and, unless the defendant is subject to an undischarged term of imprisonment, notify the appropriate authorities who may institute civil commitment proceedings for the individual. If the defendant is subject to an undischarged term of imprisonment, the court shall order the defendant into execution of that sentence and the correctional facility to which the defendant must be transported shall execute the court's order; or

**Sec. A-10. 15 MRSA §103, first ¶**, as amended by PL 2009, c. 268, §4, is further amended to read:

When a court accepts a negotiated plea of not criminally responsible by reason of insanity or when a defendant is found not criminally responsible by reason of insanity by jury verdict or court finding, the judgment must so state. In those cases the court shall order the person committed to the custody of the Commissioner of Health and Human Services to be placed in an appropriate institution for the care and treatment of persons with mental illness or ~~mental retardation~~ in an appropriate residential program that provides care and treatment for persons who have intellectual disabilities or autism for care and treatment. Upon placement in the appropriate institution or residential program and in the event of transfer from one institution or residential program to another of persons committed under this section, notice of the placement or transfer must be given by the commissioner to the committing court.

**Sec. A-11. 17-A MRSA §253, sub-§2, ¶J**, as amended by PL 2011, c. 423, §2, is further amended to read:

J. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes the other person as a person with ~~mental retardation~~ an intellectual disability or autism. It is an affirmative defense to prosecution under this paragraph that the actor receives services for ~~mental retardation~~ an intellectual disability or autism or is a person with ~~mental retardation~~ an intellectual disability, as defined in Title 34-B, section 5001, subsection 3, or autism, as defined in Title 34-B, section 6002. Violation of this paragraph is a Class C crime;

**Sec. A-12. 17-A MRSA §255-A, sub-§1, ¶¶Q and R**, as corrected by RR 2003, c. 2, §26, are amended to read:

Q. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with ~~mental retardation~~ an intellectual disability or autism. It is an affirmative defense to prosecution under this paragraph that the actor receives services for ~~mental retardation~~ an intellectual disability or autism or is a person with ~~mental retardation~~ an intellectual disability, as defined in Title 34-B, section 5001, subsection 3, or autism, as defined in Title 34-B, section 6002. Violation of this paragraph is a Class D crime;

R. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with ~~mental retardation~~ an intellectual disability or autism and the sexual contact includes penetration. It is an affirmative defense to prosecution under this paragraph that the actor receives services for ~~mental retardation~~ an intellectual disability or autism or is a person with ~~mental retardation~~ an intellectual disability, as defined in Title 34-B, section 5001, subsection 3, or autism, as defined in Title 34-B, section 6002. Violation of this paragraph is a Class C crime;

**Sec. A-13. 17-A MRSA §260, sub-§1, ¶I**, as amended by PL 2005, c. 450, §3, is further amended to read:

I. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with ~~mental retardation~~ an intellectual disability or autism. It is an affirmative defense to prosecution under this paragraph that the actor receives services for ~~mental retardation~~ an intellectual disability or autism or is a person with ~~mental retardation~~ an intellectual disability, as defined in Title 34-B, section 5001, subsection 3, or autism, as defined in Title 34-B, section 6002. Violation of this paragraph is a Class D crime;

**Sec. A-14. 18-A MRSA §5-601, sub-§(a)**, as enacted by PL 1979, c. 540, §1, is amended to read:

(a). In any case in which a guardian or conservator may be appointed by the court under this Article, the court may appoint a public guardian or conservator as provided in this Part for ~~persons who are mentally retarded and for~~ incapacitated persons as defined in section 5-101, ~~paragraph~~ subsection (1); who are in need of protective services.

**Sec. A-15. 18-A MRSA §5-601, sub-§(b)**, as amended by PL 2005, c. 397, Pt. A, §12, is further amended to read:

(b). The Department of Health and Human Services shall act as the public guardian or conservator for ~~persons with mental retardation and for other~~ incapacitated persons in need of protective services.

**Sec. A-16. 18-A MRSA §5-606**, as corrected by RR 2003, c. 2, §29 and amended by PL 2003, c. 689, Pt. B, §§6 and 7, is further amended to read:

**§5-606. Officials authorized to act as public guardian or conservator**

(a). ~~When the Department of Health and Human Services is appointed public guardian or conservator of a person with mental retardation, the authority of the public guardian or conservator must be exercised by the Commissioner of Health and Human Services and by any persons duly delegated by the commissioner to exercise such authority.~~

(b). When the Department of Health and Human Services is appointed public guardian or conservator of an incapacitated person, the authority of the public guardian or conservator ~~shall~~ must be exercised by the Commissioner of Health and Human Services and by any persons duly delegated by ~~him~~ the commissioner to exercise such authority.

(c). Persons duly delegated by the officials authorized to act under ~~subsections (a) and subsection (b)~~ may include a staff of competent social workers, or competent social workers assigned to the public guardian or conservator by the Department of Health and Human Services. In the event that the delegation is to an individual, such individual must be qualified therefor by reason of education or experience, or both, in administering to the needs of the individual or individuals over whom the individual is to exercise administrative or supervisory authority under the public guardian.

**Sec. A-17. 18-A MRSA §5-608**, as amended by PL 1995, c. 395, Pt. G, §6 and affected by §20, is repealed.

**Sec. A-18. 18-A MRSA §5-609**, as enacted by PL 1979, c. 540, §1, is amended to read:

**§5-609. No change in rights to services**

The appointment of a public guardian or conservator in no way enlarges or diminishes the ward's or protected person's right to services made available to all ~~mentally retarded or~~ incapacitated persons in the State except for the provision of guardianship or conservatorship services as provided under this Article.

**Sec. A-19. 18-A MRSA §5-613, sub-§(2)**, as amended by PL 1993, c. 410, Pt. CCC, §6 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

(2). Exception. The ~~Division of Mental Retardation or the~~ Department of Health and Human Services is not liable for the costs set out in subsection (1) if ~~the division or the~~ department can demonstrate that the allegedly incapacitated person has assets against which the costs may be assessed or that another more appropriate funding source is available and subject to the court's jurisdiction.

**Sec. A-20. 19-A MRSA §701, sub-§3**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**3. Persons legally determined to be incapacitated under the law.** A person who ~~is impaired by reason of mental illness or mental retardation to the extent that that person lacks sufficient understanding or capacity to make, communicate or implement responsible decisions concerning that person's property or person is not capable of contracting~~ has been found to be an incapacitated person, as defined in Title 18-A, section 5-101, subsection (1), by a court of competent jurisdiction and for whom a guardian or limited guardian has been appointed may not contract marriage without the approval of the appointed guardian. For the purposes of this section: For persons under limited guardianship, this subsection applies only if the court has granted the specific power to contract for marriage to the guardian.

~~A. "Mental illness" means a psychiatric or other disease that substantially impairs a person's mental health; and~~

~~B. "Mental retardation" means a condition of significantly subaverage intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period.~~

**Sec. A-21. 20-A MRSA §7001, sub-§1-B, ¶B**, as enacted by PL 2005, c. 662, Pt. A, §15, is amended to read:

B. For children at least 3 years of age and under 20 years of age evaluated in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414, subsections (a) to (c) as measured by both standardized, norm-referenced diagnostic instruments and appropriate procedures with delays or impairments such that the children need special education:

- (1) A child at least 3 years of age and under 6 years of age with a significant developmental delay, at the discretion of the intermediate educational unit or school administrative unit, as defined in rules adopted by the department, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; adaptive development; or
- (2) A child with at least one of the following:
  - (a) ~~Mental retardation~~ Intellectual disability;
  - (b) Hearing impairment, including deafness;
  - (c) Speech or language impairment;
  - (d) Visual impairment, including blindness;
  - (e) Serious emotional disturbance;
  - (f) Orthopedic impairment;
  - (g) Autism;
  - (h) Traumatic brain injury;
  - (i) Other health impairment;
  - (j) Specific learning disabilities;
  - (k) Deafness and blindness; and
  - (l) Multiple disabilities.

**Sec. A-22. 20-A MRSA §7258, sub-§§1-A and 1-B**, as enacted by PL 1997, c. 778, §1 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, are further amended to read:

**1-A. Care manager.** Within 2 years before the date that a student with ~~mental retardation~~ an intellectual disability, serious emotional disturbance or other developmental disabilities will graduate or finish school, the Department of Health and Human Services, in consultation with the pupil evaluation team of the school administrative unit, shall designate a case manager to participate in transition planning for that student. The case manager shall convene an adult services transition team, ensure interagency coordination and access to adult services, serve as a single contact person for the student transitioning into the adult services and attend pupil evaluation team meetings or provide relevant information to the pupil evaluation team for transition planning purposes.

**1-B. Annual report.** Beginning January 1, 1999 and annually thereafter, the department, in conjunction with the Department of Health and Human Services, shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters and to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs regarding transition planning for the adult services system and the number of persons 16 years of age or older on waiting lists for services for persons with autism or ~~mental retardation~~ intellectual disabilities provided by or under the authority of the department and the Department of Health and Human Services.

**Sec. A-23. 22 MRSA §1-A, sub-§3** is enacted to read:

**3. Intermediate care facility for persons with intellectual disabilities.** "Intermediate care facility for persons with intellectual disabilities" has the same meaning as in Title 34-B, section 1001, subsection 4-B.

**Sec. A-24. 22 MRSA §42, sub-§1-A**, as amended by PL 1983, c. 284, §1, is further amended to read:

**1-A. Administration of medication.** The administration of medication in boarding care facilities, drug treatment centers, day care facilities, children's homes and nursery schools and group home intermediate care facilities for ~~the mentally retarded~~ persons with intellectual disabilities must be in accordance with rules established by the department. In other facilities licensed or approved by the department, excluding those facilities licensed under section 1811, other than group home intermediate care facilities for ~~the mentally retarded~~ persons with intellectual disabilities, the department may establish rules for the administration of medication as it ~~deems~~ considers necessary. In establishing rules for each type of facility, the department shall consider, among other factors, the general health of the persons likely to receive medication, the number of persons served by the facility and the number of persons employed at the facility who

might be involved in the administration of medication. Any rules for the administration of medication ~~shall~~ must be established in accordance with ~~the Maine Administrative Procedure Act~~, Title 5, chapter 375.

**Sec. A-25. 22 MRSA §802, sub-§4-A, ¶A**, as enacted by PL 2001, c. 185, §2, is amended to read:

A. "Designated health care facility" means a licensed nursing facility, residential care facility, intermediate care facility for ~~the mentally retarded~~ persons with intellectual disabilities, multi-level health care facility, hospital or home health agency.

**Sec. A-26. 22 MRSA §812, sub-§1, ¶G**, as amended by PL 2005, c. 383, §12, is further amended to read:

G. Undergoing a comprehensive medical assessment by the State Forensic Service. The court, in selecting the examination site, shall consider proximity to the court, availability of an examiner and the need to protect the public health. No person may be presented for examination under this subsection without arrangements for examination having first been made by the court, clerk of the court or the petitioner with the State Forensic Service. The opinion of the State Forensic Service must be reported to the court forthwith following the examination.

The court shall order the individual to be further examined by a psychiatrist, neurologist and any additional expert if, based on the report of the State Forensic Service, it appears that:

- (1) The individual suffers from a mental disease or defect that causes the individual to act in such a manner as to endanger others with risk of infection with a communicable disease; or
- (2) Further observation or examination is required.

If, based on the examinations, the department determines that admission to an appropriate institution for ~~the mentally ill~~ persons with mental illness or ~~mentally retarded~~ a residential program for persons with intellectual disabilities is necessary, it shall petition for involuntary hospitalization pursuant to Title 34-B, chapter 3. If the District Court orders the involuntary hospitalization of the individual pursuant to Title 34-B, chapter 3, the petition brought pursuant to section 811 must be dismissed without prejudice. If it is determined that admission to an appropriate institution for ~~the mentally ill~~ persons with mental illness or ~~the mentally retarded~~ a residential program for persons with intellectual disabilities is not necessary, the head of the institution where the examinations have taken place shall notify the commissioner or

the commissioner's designee, prior to discharging the respondent.

In no event may the period of examination pursuant to this subsection exceed 60 days without further order by the court, which may extend commitment for further observation or examination for an additional 60 days, provided that the court finds facts sufficient to show that the individual suffers from a mental disease or defect that causes the individual to act in such a manner as to endanger others with risk of infection with a communicable disease; and

**Sec. A-27. 22 MRSA §1714-A, sub-§1, ¶F,** as enacted by PL 1991, c. 9, Pt. G, §4, is amended to read:

F. "Nursing home" means any facility that meets the definition of section 1812-A, including an intermediate care facility for ~~the mentally retarded persons with intellectual disabilities.~~

**Sec. A-28. 22 MRSA §1812-B,** as amended by PL 1983, c. 284, §2, is further amended to read:

**§1812-B. Hospitals and nursing homes**

The administration of medication in facilities licensed under section 1811, except group home intermediate care facilities for ~~the mentally retarded persons with intellectual disabilities,~~ may be delegated to unlicensed personnel when such personnel have received appropriate training and instruction and the programs of training and instruction have been approved by the State Board of Nursing. The administration of medication in group home intermediate care facilities for ~~the mentally retarded persons with intellectual disabilities~~ may be performed by unlicensed personnel when these personnel have received appropriate training and instruction and the programs of training and instruction have been approved by the department. Delegation of the administration of medication ~~shall does~~ not require the personal presence of the delegating professional nurse at the place where this service is performed, unless that personal presence is necessary to assure that medications are safely administered. The board shall issue such rules concerning delegation as it ~~deems~~ considers necessary to insure the highest quality of health care to the patient. The department shall issue such rules as it ~~deems~~ considers necessary to insure the highest quality of health care to residents of group home intermediate care facilities for ~~the mentally retarded persons with intellectual disabilities.~~

**Sec. A-29. 22 MRSA §1826, sub-§2, ¶B,** as enacted by PL 1985, c. 291, §1, is amended to read:

B. Each contract or agreement ~~shall must~~ contain a complete copy of the department rules establishing residents' rights and ~~shall must~~ contain a written acknowledgement that the resident has been

informed of those rights. ~~In the case of a mentally retarded or otherwise incompetent individual, the written acknowledgement of those rights shall be made by a representative of the resident~~ If a resident is under full guardianship, there must be a written acknowledgement of the receipt of those rights by the guardian. If a resident is under limited guardianship, both the resident and the guardian must acknowledge receipt of the rights. All notices and information regarding rights must be written in language that is plain and understandable. No provision in the contract or agreement may negate, limit or otherwise modify any provision of the residents' rights.

**Sec. A-30. 22 MRSA §2053, sub-§2-A,** as repealed and replaced by PL 1995, c. 179, §1, is amended to read:

**2-A. Community health or social service facility.** "Community health or social service facility" means a community-based facility that provides medical or medically related diagnostic or therapeutic services, mental health ~~or mental retardation~~ services, services for persons with intellectual disabilities or autism, substance abuse services or family counseling and domestic abuse intervention services; and is licensed by the State.

**Sec. A-31. 22 MRSA §3172-B, sub-§1,** as amended by PL 1981, c. 493, §2 and PL 1995, c. 560, Pt. K, §82 and affected by §83 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**1. Fund.** All ~~moneys~~ money received by the department under section 3172 ~~which are that is~~ generated by services rendered at any of the mental health ~~and mental retardation~~ institutions operated by that department ~~shall must~~ be credited to the General Fund.

**Sec. A-32. 22 MRSA §3172-B, sub-§4,** as amended by PL 1979, c. 293, Pt. B, §1, is further amended to read:

**4. Budget.** Those mental health programs and ~~mental retardation~~ those programs providing services for persons with intellectual disabilities or autism receiving legislative approval for funding for fiscal year 1979 ~~shall must~~ be considered current services by the Bureau of the Budget.

**Sec. A-33. 22 MRSA §3174-I, sub-§2,** as amended by PL 1993, c. 410, Pt. FF, §12, is further amended to read:

**2. Assessment for mental illness, intellectual disability, autism or related conditions.** The department shall assess every applicant to a nursing facility to screen for ~~mental retardation and~~ mental illness, intellectual disability, autism or other related conditions in accordance with the ~~Federal Omnibus Budget Reconciliation Act of 1987, Public Law 100-~~

~~203, Section 4211 federal Nursing Home Reform Act, Public Law 100-203, Section 4211, 42 United States Code, Section 1396r.~~ Such assessments are intended to increase the probability that any individual who ~~is mentally retarded~~ has an intellectual disability, autism or other related condition or ~~mentally ill~~ a mental illness will receive active treatment for that individual's ~~mental~~ condition.

**Sec. A-34. 22 MRSA §3186, last ¶**, as enacted by PL 1987, c. 869, §1, is amended to read:

Principles of reimbursement established for intermediate care facilities for ~~the mentally retarded~~ shall persons with intellectual disabilities must be amended to implement the recommendations of the Advisory Committee on Staff Retention. ~~These amendments shall become effective on April 1, 1989.~~

**Sec. A-35. 22 MRSA §3187**, as amended by PL 2011, c. 380, Pt. XXX, §1, is further amended to read:

**§3187. Principles of reimbursement; rules**

The department shall meet annually with providers of community-based intermediate care facilities for ~~the mentally retarded~~ persons with intellectual disabilities to review current principles of reimbursement under the federal Social Security Act, Title XIX, 42 United States Code, Chapter 7; and discuss necessary and appropriate changes.

Principles of reimbursement established for intermediate care facilities for ~~the mentally retarded~~ persons with intellectual disabilities must ensure maximum flexibility enabling facilities to shift variable cost funds within accounts established pursuant to the principles. These principles may not set any artificial limits on specific variable cost accounts as long as facility totals are met.

Rules regarding principles of reimbursement for intermediate care facilities for ~~the mentally retarded~~ persons with intellectual disabilities adopted pursuant to section 3173 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish an approval process for capital expenditures to renovate or construct intermediate care facilities for ~~the mentally retarded~~ persons with intellectual disabilities are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. A-36. 22 MRSA §3573, sub-§1, ¶B**, as enacted by PL 2003, c. 602, §1, is amended to read:

B. "Mental and physical impairments" ~~include~~ includes, but ~~are~~ is not limited to, the following conditions: ~~mental retardation~~ intellectual disability, autism, cerebral palsy, Asperger syndrome, mental illness, Prader-Willi syndrome and epilepsy.

**Sec. A-37. 22 MRSA §5104, sub-§5-A**, as enacted by PL 1989, c. 329, §9, is amended to read:

**5-A. Dependent adult.** "Dependent adult" means any adult who is wholly or partially dependent upon one or more other persons for care or support, either emotional or physical, and who would be in danger if that care or support were withdrawn. ~~For the purpose of this Part only, the term "dependent adult" excludes any adult who is mentally retarded.~~

**Sec. A-38. 22 MRSA §5104, sub-§7-A**, as enacted by PL 1989, c. 329, §12, is amended to read:

**7-A. Incapacitated adult.** "Incapacitated adult" means any adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that the adult lacks sufficient understanding or capacity to make or communicate responsible decisions concerning that individual's person, or to the extent the adult cannot effectively manage or apply that individual's estate to necessary ends. ~~For the purpose of this Part only, the term "incapacitated adult" excludes any adult who is mentally retarded.~~

**Sec. A-39. 22 MRSA §5106, sub-§2, ¶E**, as amended by PL 1989, c. 329, §16, is further amended to read:

E. Conducting a continuous evaluation of the impact, quality and value of facilities, programs and services, including their administrative adequacy and capacity. Activities operated by or with the assistance of the State and Federal Governments ~~shall~~ must be evaluated. Activities to be included, but to which the bureau ~~shall~~ is not be limited, are those relating to education, employment and vocational services, income, health, housing, transportation, community, social, rehabilitation, protective services and public guardianship or conservatorship for older people and incapacitated and dependent adults and programs such as the supplemental security income program, Medicare, Medicaid, property tax refunds and the setting of standards for the licensing of nursing, intermediate care and boarding homes. ~~Included shall be~~ are activities as authorized by this and so much of the several Acts and amendments to them enacted by the people of the State; and those authorized by United States Acts and amendments to them such as the:

- (1) Elderly Householders Tax and Rent Refund Act of 1971;
- (2) Priority Social Services Act of 1973;
- (3) Chapter 470 of the public laws of 1969 creating the State Housing Authority;
- (4) United States Social Security Act of 1935;
- (5) United States Housing Act of 1937;

- (6) United States Older Americans Act of 1965;
- (7) United States Age Discrimination Act of 1967;
- (8) Home Based Care Act of 1981;
- (9) Congregate Housing Act of 1979;
- (10) Adult Day Care Services Act of 1983;
- (11) Adult Day Care Licensing Act of 1987;
- (12) Adult Protective Services Act of 1981; ~~and~~
- (13) The Uniform Probate Code, Title 18-A;
- (14) The Americans with Disabilities Act of 1990;
- (15) The Developmental Disabilities Assistance and Bill of Rights Act of 2000; and
- (16) The ADA Amendments Act of 2008;

**Sec. A-40. 22 MRSA §5106, sub-§11-B**, as amended by PL 2003, c. 653, §21, is further amended to read:

**11-B. Adult protective services.** Administer a program of protective services as provided in chapter 958-A designed to protect incapacitated and dependent adults, ~~other than adults who are mentally retarded,~~ from abuse, neglect, exploitation and physical danger. The program is described in the Adult Protective Services Act;

**Sec. A-41. 22 MRSA §5304, sub-§1-A** is enacted to read:

**1-A. Adult developmental services.** "Adult developmental services" has the same meaning as in Title 34-B, section 1001, subsection 1-A.

**Sec. A-42. 22 MRSA §5310, sub-§9**, as enacted by PL 1973, c. 793, §12, is amended to read:

9. Carry on a continuing evaluation of the social services programs and activities affecting Maine's residents, to determine the needs and priorities for types of social services; the types of services available; the number, location and characteristics of people served by each type of service; the amount, type and source of resources supporting types of services, the administrative adequacy and capacity of social service agencies; and the quality and quantity of types of social services; as well as to determine the value and impact of programs operated by or administered with the assistance of the State and Federal Governments; including social services as authorized by this and the several Acts and amendments to them enacted by the People of the State of Maine; and those authorized by these United States Acts and amendments to them; the Social Security Act of 1935, the Economic Opportunity Act of 1965, and similar Acts. Such human ser-

vices to be included, but to which the bureau ~~shall~~ is not ~~be~~ limited, are those relating to education, employment and vocational services, income, health, housing, community, mental health, ~~mental retardation~~ adult developmental, social, transportation and rehabilitation services for people, except older people. Maintaining statistical information through use of uniform methods, which are reasonable, feasible and economically efficient, ~~shall~~ must be specified for use by public and private agencies, organizations and individuals assisted by state or federal funds pursuant to this Part;

**Sec. A-43. 22 MRSA §6110, 4th ¶**, as repealed and replaced by PL 1975, c. 523, §1, is amended to read:

Services for ~~the Mentally Retarded~~ Persons with Intellectual Disabilities or Autism;

**Sec. A-44. 22 MRSA §6111, sub-§4**, as amended by PL 1977, c. 317, §3, is further amended to read:

**4. Maximum state share of cost.** State funds appropriated for priority social services may be used to pay a portion of expenditures under each agreement for each type of social service in an amount not to exceed the maximum percentage for state funds of 100% of the total expenditures for each type of priority social service as specified below. One hundred percent funding ~~shall~~ must be available for not more than 2 years consecutively or in total. State funds appropriated for priority social services may be used to pay a portion of expenditures under each agreement for each type of social service in an amount not to exceed the maximum percentage for state funds of the total expenditures for each type of priority social service as specified below when programs have been funded for a total of 2 years, consecutively or in total. The maximum percentage of state funds of the total expenditures for each type of service ~~shall~~ may not exceed:

- 75% for homemaker service;
- 75% for developmental day care, including family day care;
- 75% for services for ~~the mentally retarded persons~~ with intellectual disabilities or autism;
- 75% for meals for older people;
- 75% for mental health services;
- 75% for transportation services;
- 75% for health and home care needs for the elderly.

**Sec. A-45. 22 MRSA §6111, sub-§5**, as amended by PL 1981, c. 608, §3, is further amended to read:

**5. Maximum use of nonstate resources.** State funds paying a portion only of expenditures for priority social services ~~shall be~~ are valid only when

"earned" or "matched" by expenditure of nonstate resources, which may be cash or in-kind. The expenditure of such resource ~~shall~~ must be in an amount at least equal to the minimum percentage for nonstate resources of the total expenditures for each type of priority social services as specified below. The minimum percentage for nonstate resources of the total expenditures for each type of service ~~shall be~~ is:

25% for homemaker service;

25% for developmental day care, including family day care;

25% for services for ~~the mentally retarded persons with intellectual disabilities~~ or autism;

25% for meals for older people;

25% for mental health services;

25% for transportation services;

25% for health and home care needs for the elderly.

Nonstate resources authorized to qualify to earn or match state funds ~~shall~~ include private funds such as gifts, grants, fees for service or contributions; in-kind resources that are actual out-of-pocket expenditures; or actual loss of revenue related directly and essentially as an integral part of the operation of a priority social service; and public revenues such as municipal taxes, a municipal or county amount of federal revenue sharing funds, other appropriate federal resources and state revenue sharing funds and such other public resources as may be received by, generated by or available to a municipal or county government or other political subdivision or quasi-governmental bodies.

**Sec. A-46. 22 MRSA §7302, sub-§6**, as amended by PL 2001, c. 596, Pt. B, §10 and affected by §25, is further amended to read:

**6. Institutional settings.** "Institutional settings" means residential care facilities, licensed pursuant to chapter 1664; intermediate care and skilled nursing facilities and units and hospitals, licensed pursuant to chapter 405; and state institutions for individuals who ~~are mentally ill or mentally retarded or who have a mental illness or who have intellectual disabilities or autism or other related conditions.~~

**Sec. A-47. 22 MRSA §7942, sub-§7**, as amended by PL 2003, c. 634, §8, is further amended to read:

**7. State licensing rules.** "State licensing rules" refers to the department's rules governing the licensing and functioning of nursing facilities, intermediate care facilities for persons with ~~mental retardation~~ intellectual disabilities and assisted living programs or residential care facilities.

**Sec. A-48. 22 MRSA §8752, sub-§2**, as amended by PL 2009, c. 358, §1, is further amended to read:

**2. Health care facility.** "Health care facility" or "facility" means a state institution as defined under Title 34-B, chapter 1 or a health care facility licensed by the division, except that it does not include a facility licensed as a nursing facility or licensed under chapter 1664. "Health care facility" includes a general and specialty hospital, an ambulatory surgical facility, an end-stage renal disease facility and an intermediate care facility for persons with ~~mental retardation~~ intellectual disabilities or other developmental disabilities.

**Sec. A-49. 22-A MRSA §101, sub-§1-A** is enacted to read:

**1-A. Adult developmental services.** "Adult developmental services" has the same meaning as in Title 34-B, section 1001, subsection 1-A.

**Sec. A-50. 22-A MRSA §203, sub-§1, ¶C**, as enacted by PL 2003, c. 689, Pt. A, §1, is amended to read:

C. ~~Mental retardation and developmental~~ Developmental disability services;

**Sec. A-51. 22-A MRSA §206, sub-§4**, as enacted by PL 2007, c. 539, Pt. N, §45, is amended to read:

**4. Grievance procedures.** The commissioner shall establish procedures for hearing grievances of clients who receive mental health services or ~~mental retardation~~ adult developmental services or of children who receive behavioral health services. The procedures must include the opportunity for a timely hearing before a state hearing examiner or an independent fair hearing examiner. The commissioner may contract for the services of the hearing examiner, who shall conduct adjudicatory proceedings pursuant to the Maine Administrative Procedure Act.

**Sec. A-52. 22-A MRSA §207, sub-§7**, as enacted by PL 2007, c. 539, Pt. N, §46, is amended to read:

**7. Contracts with health care servicing entities.** The commissioner may enter into contracts with health care servicing entities for the financing, management and oversight of the delivery of mental health, ~~mental retardation~~ adult developmental and substance abuse services to clients pursuant to a state or federally sponsored health program in which the department participates or that the department administers. For the purposes of this subsection, "health care servicing entity" means a partnership, association, corporation, limited liability company or other legal entity that enters into a contract with the State to provide or arrange for the provision of a defined set of health care services; to assume responsibility for some aspects of quality assurance, utilization review, provider credentialing and provider relations or other related network management functions; and to assume financial risk for provision of such services to clients through capitation re-

imbursement or other risk-sharing arrangements. "Health care servicing entity" does not include insurers or health maintenance organizations. In contracting with health care servicing entities, the commissioner:

A. Shall include in all contracts with the health care servicing entities standards, developed in consultation with the Superintendent of Insurance, to be met by the contracting entity in the areas of financial solvency, quality assurance, utilization review, network sufficiency, access to services, network performance, complaint and grievance procedures and records maintenance;

B. Prior to contracting with any health care servicing entity, must have in place a memorandum of understanding with the Superintendent of Insurance for the provision of technical assistance, which must provide for the sharing of information between the department and the superintendent and the analysis of that information by the superintendent as it relates to the fiscal integrity of the contracting entity;

C. May require periodic reporting by the health care servicing entity as to activities and operations of the entity, including the entity's activities undertaken pursuant to commercial contracts with licensed insurers and health maintenance organizations;

D. May share with the Superintendent of Insurance all documents filed by the health care servicing entity, including documents subject to confidential treatment if the information is treated with the same degree of confidentiality as is required of the department; and

E. May make all necessary rules for the administration of contracts with health care servicing entities. All rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. A-53. 30-A MRSA §1561, sub-§1, ¶E,** as enacted by PL 1995, c. 201, §1, is amended to read:

E. Is an inpatient at a state-funded mental health ~~or mental retardation~~ facility or is a resident at a state-funded facility for individuals with adult developmental disabilities;

**Sec. A-54. 30-A MRSA §4349-A, sub-§1, ¶C,** as amended by PL 2001, c. 613, §2, is further amended to read:

C. Areas other than those described in paragraph A or B for the following projects:

(1) A project certified to the Land and Water Resources Council established in Title 5, section 3331 by the head of the agency funding the project as necessary to remedy a threat to

public health or safety or to comply with environmental clean-up laws;

(2) A project related to a commercial or industrial activity that, due to its operational or physical characteristics, typically is located away from other development, such as an activity that relies on a particular natural resource for its operation;

(3) An airport, port or railroad or industry that must be proximate to an airport, a port or a railroad line or terminal;

(4) A pollution control facility;

(5) A project that maintains, expands or promotes a tourist or cultural facility that is required to be proximate to a specific historic, natural or cultural resource or a building or improvement that is related to and required to be proximate to land acquired for a park, conservation, open space or public access or to an agricultural, conservation or historic easement;

(6) A project located in a municipality that has none of the geographic areas described in paragraph A or B and that prior to January 1, 2000 formally requested but had not received from the office funds to assist with the preparation of a comprehensive plan or that received funds to assist with the preparation of a comprehensive plan within the previous 2 years. This exception expires for a municipality 2 years after such funds are received;

(7) A housing project serving the following: individuals with mental illness, ~~mental retardation~~, developmental disabilities, physical disabilities, brain injuries, substance abuse problems or a human immunodeficiency virus; homeless individuals; victims of domestic violence; foster children; or children or adults in the custody of the State. A nursing home is not considered a housing project under this paragraph; or

(8) A project certified to the Land and Water Resources Council established in Title 5, section 3331 by the head of the agency funding the project as having no feasible location within an area described in paragraph A or B if, by majority vote of all members, the Land and Water Resources Council finds that extraordinary circumstances or the unique needs of the agency require state funds for the project. The members of the Land and Water Resources Council may not delegate their authority under this subparagraph to the staffs of their member agencies.

**Sec. A-55. 30-A MRSA §4722, sub-§2, ¶C,** as amended by PL 1991, c. 511, Pt. B, §1 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

C. Any nursing home or related institution licensed or subject to license by the Department of Health and Human Services under Title 22, section 1817, except intermediate care facilities for ~~the mentally retarded persons with intellectual disabilities~~ and persons with related conditions or the construction, substantial rehabilitation or improvement of homeless shelter facilities that may be related to an institution licensed or subject to license by the Department of Health and Human Services under Title 22, section 1817.

**Sec. A-56. 32 MRSA §63-A, sub-§1,** as amended by PL 2007, c. 402, Pt. E, §1, is further amended to read:

**1. Membership.** The Nursing Home Administrators Licensing Board, as established by Title 5, section 12004-A, subsection 23, consists of 7 members appointed by the Governor. The members must be residents of this State. One member must be a registered nurse with not less than 5 years of active practice in nursing homes in the State. Two members must be public members as defined in Title 5, section 12004-A. Three members must be administrators of nursing homes with not less than 5 years of active experience in the State. One member must be an administrator of an intermediate care facility for ~~the mentally retarded persons with intellectual disabilities~~ with not less than 5 years of active practice in that capacity.

**Sec. A-57. 34-A MRSA §1001, sub-§1-B** is enacted to read:

**1-B. Adult developmental services.** "Adult developmental services" has the same meaning as in Title 34-B, section 1001, subsection 1-A.

**Sec. A-58. 34-A MRSA §1206, sub-§1, ¶D,** as enacted by PL 1983, c. 459, §6, is amended to read:

D. "Human service" means any alcoholism, children's community action, corrections, criminal justice, developmental disability, donated food, education, elderly, food stamp, income maintenance, health, juvenile, law enforcement, legal, medical care, mental health, ~~mental retardation~~ adult developmental, poverty, public assistance, rehabilitation, social, substance abuse, transportation, welfare or youth service operated by a community agency under an agreement financially supporting the service, wholly or in part, by funds authorized for expenditure for the department.

**Sec. A-59. 34-A MRSA §3031, sub-§2, ¶A,** as amended by PL 1995, c. 462, Pt. D, §6, is further amended to read:

A. A client is exempt from payment of medical and dental services fees and fees for prescriptions, medication or prosthetic devices when the client:

- (1) Receives treatment initiated by facility staff;
- (2) Is a juvenile;
- (3) Is pregnant;
- (4) Is ~~seriously mentally ill or developmentally disabled~~ a person with a serious mental illness or developmental disability. For the purposes of this paragraph, "seriously mentally ill" or "developmentally disabled" "a person with a serious mental illness or developmental disability" means a client who, as a result of a mental disorder or developmental disability, exhibits emotional or behavioral functioning that is so impaired as to interfere substantially with the client's capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration, as determined by the facility's psychiatrist or psychologist;
- (5) Is an inpatient at a state-funded mental health ~~or mental retardation~~ facility or is a resident at a state-funded facility for individuals with adult developmental disabilities;
- (6) Is undergoing follow-up treatment;
- (7) Receives emergency treatment as determined by the facility's medical or dental staff; or
- (8) Has less than \$15 in the client's facility account and did not receive additional money from any source for 6 months following the medical or dental service or provision of the prescription, medication or prosthetic device.

**Sec. A-60. 34-B MRSA §1001, sub-§§1-A and 4-B** are enacted to read:

**1-A. Adult developmental services.** "Adult developmental services" means any support or assistance provided, licensed or funded in whole or in part by the department pursuant to chapter 5 or 6 to an adult with an intellectual disability or autism.

**4-B. Intermediate care facility for persons with intellectual disabilities.** "Intermediate care facility for persons with intellectual disabilities" means an intermediate care facility for the mentally retarded as defined in Section 1905(d) of the federal Social Security Act, 42 United States Code, Section 1396d(d) and its implementing regulations.

**Sec. A-61. 34-B MRSA §1207, sub-§3, ¶A,** as enacted by PL 1983, c. 459, §7, is repealed and the following enacted in its place:

A. A facility or a provider that receives funds from the department to provide services for persons eligible for such services under this Title shall send information and records to the commissioner, if requested by the commissioner pursuant to the department's obligation to maintain the overall responsibility for the care and treatment of persons receiving mental health services funded in full or in part by the State.

**Sec. A-62. 34-B MRSA §1208, sub-§1, ¶D,** as enacted by PL 1983, c. 459, §7, is amended to read:

D. "Human service" means any alcoholism, children's community action, corrections, criminal justice, developmental disability, donated food, education, elderly, food stamp, income maintenance, health, juvenile, law enforcement, legal, medical care, mental health, ~~mental retardation~~ child and adult developmental, poverty, public assistance, rehabilitation, social, substance abuse, transportation, welfare or youth service operated by a community agency under an agreement financially supporting the service, wholly or in part, by funds authorized for expenditure by the department.

**Sec. A-63. 34-B MRSA §1208, sub-§1, ¶H,** as enacted by PL 2003, c. 673, Pt. SSS, §1, is amended to read:

H. "Service provider" means a community agency providing services for children with mental health needs, ~~mental retardation and intellectual disabilities~~ or autism.

**Sec. A-64. 34-B MRSA §1208, sub-§7,** as enacted by PL 1999, c. 401, Pt. SS, §1 and affected by §4, is amended to read:

**7. Community agency staff retention.** The commissioner shall, through contracts and service agreements with community agencies, provide funding to retain qualified direct-care workers employed by community ~~mental retardation~~ services providers agencies providing services for children and adults with intellectual disabilities or autism.

**Sec. A-65. 34-B MRSA §1218, sub-§2,** as amended by PL 1995, c. 560, Pt. K, §24, is further amended to read:

**2. Services for persons with intellectual disabilities or autism.** The department shall provide accommodations and services ensuring access for persons who are deaf or hard-of-hearing to ~~mental retardation~~ programs funded or licensed by the department providing services for persons who have intellectual disabilities or autism. These accommodations and services must include, but are not limited to, the following.

A. The department shall ensure the provision of appropriate assessments for clients who are deaf

or hard-of-hearing. Assessments must be performed by a person who is proficient in American Sign Language and must include an assessment of ~~mental retardation~~ intellectual disability or autism and an assessment of communication skills, including the capacity to communicate using American Sign Language. The department shall survey the client population to determine which clients are deaf or hard-of-hearing.

B. For purposes of treatment, the department shall ensure the provision of interpreter services by a person proficient in American Sign Language.

C. The department shall ensure that ~~mental retardation~~ staff providing direct services to persons who are deaf or hard-of-hearing have education and training in American Sign Language and deaf culture.

D. The department shall provide for the placement ~~in comprehensive community mental retardation facilities~~ of telecommunication devices for persons who are deaf or hard-of-hearing in any location that provides residential, employment or other community-based services for persons eligible under this Title.

E. The department shall ensure the provision of support and training for families with members ~~with mental retardation~~ who have an intellectual disability or autism who are deaf or hard-of-hearing.

F. The department shall establish therapeutic residence options for persons with ~~mental retardation~~ intellectual disabilities or autism who are deaf or hard-of-hearing and in need of a residence. The therapeutic residences must be operated in conjunction with existing rehabilitation, education, ~~mental retardation treatment and housing~~ and other community-based service resources. The therapeutic residences must be staffed by individuals trained in ~~mental retardation treatment~~ providing services for persons with intellectual disabilities and autism and proficient in American Sign Language. Therapeutic residence options must be flexible and allow for individual choice.

G. The department shall designate in each regional office one staff person who is responsible for the coordination of deaf services in that office. The department shall provide ongoing training to regional office staff with the goal of having at least one person in each regional office who is proficient in American Sign Language.

**Sec. A-66. 34-B MRSA §1223, sub-§§1 and 8,** as enacted by PL 2007, c. 356, §7 and affected by c. 695, Pt. D, §3, are amended to read:

**1. Composition.** The Maine Developmental Services Oversight and Advisory Board, as established by Title 5, section 12004-J, subsection 15 and referred to in this section as "the board," consists of 15 members appointed by the Governor from a list of nominees proposed by the board pursuant to procedures established in the rules of the board.

A. The board shall submit nominees to the Governor at least 90 days prior to the expected date of each vacancy.

B. In making nominations, the board shall endeavor to ensure adequate representation at all times from different service regions of the State and from interested stakeholder groups, including but not limited to:

(1) The protection and advocacy agency designated pursuant to Title 5, section 19502;

(2) A statewide coalition that works to support and facilitate the ability of local and statewide self-advocacy organizations to network with each other and with national organizations;

(3) A nonprofit organization that serves teens and young adults in the State with emotional and intellectual disabilities;

(4) A statewide coalition that works to support and facilitate the ability of local and statewide self-advocacy organizations to network with each other and with national organizations; and

(5) The Maine Developmental Disabilities Council.

C. In making the nominations and appointments, the board and the Governor shall endeavor to ensure that at least 8 of the members of the board are persons with ~~mental retardation~~ intellectual disabilities or autism or family members, guardians or allies of persons with ~~mental retardation~~ intellectual disabilities or autism who receive services funded by the Department of Health and Human Services. Of these members, at least 4 must be persons with ~~mental retardation~~ intellectual disabilities or autism, referred to in this section as "self-advocates."

Members of the board must include stakeholders involved in services and supports for persons with ~~mental retardation~~ intellectual disabilities or autism in the State and other individuals interested in issues affecting persons with ~~mental retardation~~ intellectual disabilities or autism. Employees of the Department of Health and Human Services may not be appointed as members of the board.

**8. Oversight and advisory functions.** The board shall:

A. Provide independent oversight over programs and services for adults with ~~mental retardation~~ intellectual disabilities or autism that are provided, authorized, funded or supported by the department or any other agency or department of State Government. The board shall focus on systemic concerns affecting the rights of persons with ~~mental retardation~~ intellectual disabilities or autism, including but not limited to issues surrounding health and safety, inclusion, identification of needs and desires of persons eligible for services by the department, the timely meeting of the identified needs and effective and efficient delivery of services and supports; and

B. Provide advice and systemic recommendations to the commissioner, the Governor and the Legislature regarding policies, priorities, budgets and legislation affecting the rights and interests of persons with ~~mental retardation~~ intellectual disabilities or autism.

**Sec. A-67. 34-B MRSA §1223, sub-§9, ¶¶A and D,** as enacted by PL 2007, c. 356, §7 and affected by c. 695, Pt. D, §3, are amended to read:

A. The board shall hold at least one hearing or other forum each year that is open to the public in order to gather information about the availability, accessibility and quality of services available to persons with ~~mental retardation~~ intellectual disabilities or autism and their families.

D. The board shall report at least annually to the Governor and the Legislature on its activities and recommendations regarding policies, priorities, budgets and legislation affecting the rights and interests of persons with ~~mental retardation~~ intellectual disabilities or autism. The board's annual report must include the board's assessment of its operations and progress in addressing the priorities established pursuant to paragraph C. The board's annual report must be made public and widely disseminated in a manner designed to inform interested stakeholders.

**Sec. A-68. 34-B MRSA §1223, sub-§10,** as enacted by PL 2007, c. 356, §7 and affected by c. 695, Pt. D, §3, is amended to read:

**10. Access to information.** The board is entitled to access to information from the department necessary to carry out its functions. Except as provided in paragraphs B, C, D and E, information provided pursuant to this subsection may not contain personally identifying information about a person with ~~mental retardation~~ intellectual disabilities or autism.

A. The department shall provide the board, on a schedule to be agreed upon between the board and the department, reports on case management, reportable events, adult protective and rights investigations, unmet needs, crisis services, quality as-

surance, quality improvement, budgets and other reports that contain data about or report on the delivery of services to or for the benefit of persons with ~~mental retardation~~ intellectual disabilities or autism, including reports developed by or on behalf of the department and reports prepared by others about the department.

B. The chief advocate and the manager of adult protective services in the Office of Adults with Cognitive and Physical Disability Services within the department, when requested by the board or pursuant to a written agreement with the board, shall release to the board information pertaining to alleged abuse, exploitation or neglect or alleged dehumanizing practice or violation of rights of a person with ~~mental retardation~~ intellectual disabilities or autism. The board shall maintain the confidentiality of information disclosed to it or discovered by it as required by section 1207.

C. The board may request and review reports of actions taken by an entity to which a referral is made under subsection 9, paragraph F. If these reports are likely to reveal personally identifying information, the board shall conduct reviews in executive session and shall take all actions necessary and appropriate to preserve the confidentiality of the information.

D. The board may examine confidential information in individual records with written permission of the person or that person's guardian. If the person or that person's guardian provides the board with written permission to examine confidential information, the board must maintain the confidentiality of the information as required by section 1207.

E. The board or the board's staff may receive and examine confidential information when otherwise authorized to do so by law, including but not limited to when serving on a committee established by the department for which access to such information is necessary to perform the function of the committee.

**Sec. A-69. 34-B MRSA §1402, sub-§1**, as amended by PL 1995, c. 560, Pt. K, §27, is further amended to read:

**1. Commissioner's duty.** In every state institution to which a person with mental illness or ~~mental retardation~~ an intellectual disability may be committed, the commissioner shall organize and administer the duties set forth in subsection 2.

**Sec. A-70. 34-B MRSA §1402, sub-§2, ¶C**, as amended by PL 1995, c. 560, Pt. K, §27, is further amended to read:

C. Acquire and disseminate knowledge of mental disease, ~~mental retardation~~ intellectual disabilities,

autism and allied other related conditions with a view to promoting a better understanding and the most enlightened public sentiment and policy in these matters, and in this work the department may cooperate with local authorities, schools and social agencies.

**Sec. A-71. 34-B MRSA §1407**, as enacted by PL 1983, c. 459, §7, is amended to read:

**§1407. Appointment of physician**

In every state institution to which a ~~mentally ill or mentally retarded~~ person with mental illness or a person with an intellectual disability or autism may be committed, the commissioner shall appoint a physician experienced in the care and treatment of such persons and the necessary assistants to the physician.

**Sec. A-72. 34-B MRSA §1408**, as enacted by PL 1983, c. 459, §7, is amended to read:

**§1408. Cooperation with state departments**

Whenever it is ~~deemed~~ determined advisable, the chief administrative officer of any institution providing services for the mentally ill or mentally retarded persons with mental illness, intellectual disabilities or autism may cooperate with state departments to examine upon request and recommend suitable treatment and supervision for:

**1. Mental illness, intellectual disability or autism.** Persons thought to ~~be mentally ill or mentally retarded~~ have a mental illness, an intellectual disability or autism; and

**2. Juvenile Court.** Children brought before any Juvenile Court.

**Sec. A-73. 34-B MRSA §1431, sub-§2**, as enacted by PL 1983, c. 459, §7, is amended to read:

**2. Requirements.** The chief administrative officer of any state institution, or a person designated by ~~him~~ the chief administrative officer, may place any person who has been hospitalized ~~as mentally ill or mentally retarded~~ based on a diagnosis of mental illness, intellectual disability or autism, except residents described in chapter 3, subchapter ~~IV~~ 4, ~~Article II~~ article 2, on indefinite convalescence status, if the officer or ~~his~~ the officer's designee determines that the residential facility in which the person will be residing is at least equivalent in the quality of living conditions to the state institution in which the person is hospitalized.

**Sec. A-74. 34-B MRSA §5001, sub-§1-B**, as enacted by PL 2007, c. 356, §8 and affected by §31, is amended to read:

**1-B. Correspondent.** "Correspondent" means a person designated by the Consumer Advisory Board or its successor to act as a next friend of a person with ~~mental retardation~~ an intellectual disability or autism.

**Sec. A-75. 34-B MRSA §5001, sub-§2,** as enacted by PL 1983, c. 459, §7, is amended to read:

**2. Incapacitated person.** "Incapacitated person" means any person who is impaired by reason of ~~mental retardation~~ intellectual disability or autism to the extent that ~~he~~ the person lacks sufficient understanding or capacity to make, communicate or implement reasonable personal decisions ~~concerning his person or property or decisions regarding the person's property.~~

**Sec. A-76. 34-B MRSA §5001, sub-§2-A,** as enacted by PL 2007, c. 356, §10 and affected by §31, is amended to read:

**2-A. Individual support coordinator.** "Individual support coordinator" means a regional staff member of the department with the responsibility for coordinating the personal planning and professional services for a person ~~with mental retardation or autism~~ eligible for adult developmental services under this Title.

**Sec. A-77. 34-B MRSA §5001, sub-§3,** as amended by PL 1989, c. 73, §3, is further amended to read:

**3. Intellectual disability.** "~~Mental retardation~~ Intellectual disability" means a condition of significantly subaverage intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period.

**Sec. A-78. 34-B MRSA §5001, sub-§3-A,** as enacted by PL 1989, c. 73, §4, is repealed.

**Sec. A-79. 34-B MRSA §5001, sub-§3-B,** as enacted by PL 2007, c. 356, §11 and affected by §31, is amended to read:

**3-B. Person.** "Person" means an adult with ~~mental retardation~~ an intellectual disability or autism.

**Sec. A-80. 34-B MRSA §5001, sub-§3-C,** as enacted by PL 2007, c. 356, §12 and affected by §31, is amended to read:

**3-C. Personal planning.** "Personal planning" means a process that assists and supports each person ~~with mental retardation~~ who has an intellectual disability or autism in creating a vision for how to live in and be a part of the community.

**Sec. A-81. 34-B MRSA §5001, sub-§3-D,** as enacted by PL 2007, c. 356, §13 and affected by §31, is amended to read:

**3-D. Personal planning team.** "Personal planning team" means the person with ~~mental retardation~~ an intellectual disability or autism, the person's guardian, if any, the person's individual support coordinator or case manager and other individuals chosen or identified by the person to participate in personal planning.

**Sec. A-82. 34-B MRSA §5002,** as enacted by PL 1983, c. 459, §7, is amended to read:

**§5002. Policy**

**1. Services.** It is the policy of the State to provide education, training and habilitative services to ~~mentally retarded~~ persons with intellectual disabilities or autism who need those services, except that nothing in this chapter may replace or limit the right of any ~~mentally retarded person with an intellectual disability or autism~~ to treatment by spiritual means alone, through prayer, if that treatment is requested by the person or by ~~his~~ the person's next of kin or guardian.

**2. Setting.** It is the policy of the State that the setting for the services described in subsection 1 ~~shall~~ must, consistent with adequate care and treatment:

A. Impose the fewest possible restrictions on the liberty of ~~mentally retarded~~ persons with intellectual disabilities or autism; and

B. Be as close as possible to the patterns and norms of the mainstream of society.

**Sec. A-83. 34-B MRSA §5003-A,** as enacted by PL 2007, c. 356, §16 and affected by §31, is amended to read:

**§5003-A. System of care for clients with intellectual disabilities or autism**

**1. System of care.** The Legislature declares that the system of care through which the State provides services to and programs for persons with ~~mental retardation~~ intellectual disabilities or autism must be designed to protect the integrity of the legal and human rights of these persons and to meet their needs consistent with the principles guiding delivery of services as set forth in section 5610.

**2. Responsibilities of the department.** To facilitate the development of a system that meets the needs of persons with ~~mental retardation~~ intellectual disabilities or autism, the commissioner shall:

A. Provide a mechanism for the identification, evaluation, treatment and reassessment of and the provision of services to persons with ~~mental retardation~~ intellectual disabilities or autism that is consistent with the principles guiding delivery of services, as set forth in section 5610, through appropriate personal planning offered to persons served by the department in accordance with section 5470-B;

B. Identify the needs and desires of persons with ~~mental retardation~~ intellectual disabilities or autism through appropriate personal planning and record any unmet needs of persons served or eligible for service by the department for development of budget requests to the Governor that are adequate to meet such needs;

C. Provide programs, insofar as resources permit, for appropriate services and supports to persons with ~~mental retardation~~ intellectual disabilities or autism regardless of age, severity of need or ability to pay;

D. Support the establishment of community services for persons eligible to receive services from the department by promoting access to professional services in the person's community. Such support may be provided directly or through contracts with qualified providers. For persons who have professional service needs identified through personal planning, the department shall monitor the provision of those services;

E. Eliminate the department's own duplicative and unnecessary administrative procedures and practices in the system of care for persons with ~~mental retardation~~ intellectual disabilities or autism, encourage other departments to do the same and clearly define areas of responsibility in order to use present resources economically;

F. Strive toward having a sufficient number of personnel who are qualified and experienced to provide treatment that is beneficial to persons with ~~mental retardation~~ intellectual disabilities or autism; and

G. Encourage other departments to provide to persons with ~~mental retardation~~ intellectual disabilities or autism those services that are required by law, and in particular:

(1) The commissioner shall work actively with the Commissioner of Education to ensure that persons with ~~mental retardation~~ intellectual disabilities or autism receive appropriate services upon being diagnosed with either disability regardless of the degree of ~~retardation or autism~~ functional limitation or accompanying disabilities ~~or handicaps~~;

(2) The commissioner shall advise other departments about standards and policies pertaining to administration, staff, quality of care, quality of treatment, health and safety of clients, rights of clients, community relations and licensing procedures and other areas that affect persons with ~~mental retardation~~ intellectual disabilities or autism residing in facilities licensed by the department; and

(3) The commissioner shall inform the joint standing committee of the Legislature having jurisdiction over human resources matters about areas where increased cooperation by other departments is necessary in order to improve the delivery of services to persons with ~~mental retardation~~ intellectual disabilities or autism.

**3. Plan.** The commissioner shall prepare a plan pursuant to this subsection.

A. The plan must indicate the most effective and efficient manner in which to implement services and programs for persons with ~~mental retardation~~ intellectual disabilities or autism while safeguarding and respecting the legal and human rights of these persons.

B. The plan must be prepared once every 2 years and must be submitted to the joint standing committee of the Legislature having jurisdiction over health and human services matters by no later than January 15th of every odd-numbered year.

C. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall study the plan and make recommendations to the Legislature with respect to funding improvements in programs and services to persons with ~~mental retardation~~ intellectual disabilities or autism.

D. The plan must describe the system of ~~mental retardation~~ intellectual disability and autism services in each of the ~~mental retardation~~ adult developmental service regions and statewide.

E. The plan must include both existing service resources and deficiencies in the system of services.

F. The plan must include an assessment of the roles and responsibilities of ~~mental retardation~~ intellectual disability and autism agencies, human service agencies, health agencies and involved state departments and suggest ways in which these departments and agencies can better cooperate to improve the service systems.

G. The plan must be made public within the State in such a manner as to facilitate public involvement.

H. The commissioner must ensure that the development of the plan includes the participation of community ~~mental retardation~~ intellectual disability and autism service providers, consumer and family groups and other interested persons or groups in annual statewide hearings, as well as informal meetings and work sessions.

I. The commissioner must consider community service needs, relate these identified needs to biennial budget requests and incorporate necessary service initiatives into a comprehensive planning document.

**4. General Fund account; Medicaid match; intellectual disability; autism.** The commissioner shall establish a General Fund account to provide the General Fund match for ~~mental retardation~~ intellectual disability or autism Medicaid eligible services. Any unencumbered balances of General Fund appropria-

tions remaining at the end of each fiscal year must be carried forward to be used for the same purposes.

**5. Medicaid savings.** Intermediate care facilities for persons with ~~mental retardation~~ intellectual disabilities or autism and providers of freestanding day habilitation programs shall submit payment to the department equal to 50% of any Medicaid savings due the State pursuant to the principles of reimbursement, as established under Title 22, sections 3186 and 3187, that are reported in any unaudited cost report for fiscal years ending June 30, 1995 and thereafter. Payment is due with the cost report. After audit, any amount submitted in excess of savings allocated to the facility or provider pursuant to the principles of reimbursement must be returned to the facility or provider. Notwithstanding requirements or conditions contained in the principles of reimbursement, any amount due the State after final audit in excess of savings paid on submission of a cost report must be paid to the State within 90 days following receipt of the department's final audit report.

**6. Required reporting by the department.** The department shall make available, on at least an annual basis, a report or reports regarding the services and support provided by the department to persons with ~~mental retardation~~ intellectual disabilities or autism.

A. The goal of the reporting under this subsection is to provide the public with information on outcome measures established by the department. These measures may include, but are not limited to, whether:

- (1) Persons served by the department are healthy and safe;
- (2) Needs of persons are being met;
- (3) People are included in their communities; and
- (4) The system of care under this section is efficient and effective.

B. At a minimum, the department's report or reports under this subsection must offer information on the following:

- (1) Unmet needs;
- (2) Reportable events;
- (3) Adult protective services;
- (4) Crisis services;
- (5) Persons' and families' satisfaction with services;
- (6) Case management ratios;
- (7) Evaluations of costs of services;
- (8) Grievances;

(9) Quality assurance and quality improvement efforts; and

(10) New initiatives.

C. A report under this subsection must be provided to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The commissioner or the commissioner's designee shall appear in person before the committee and shall present the report. The report must be posted on the department's publicly accessible website and must be made easily available to persons served by the department, families, guardians, advocates, Legislators and the provider community.

**Sec. A-84. 34-B MRSA §5004**, as corrected by RR 2003, c. 2, §103, is amended to read:

**§5004. Sexual activity with recipient of services prohibited**

A person who owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services may not engage in a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, with another person or subject another person to sexual contact, as defined in Title 17-A, section 251, subsection 1, paragraph D, if the other person, not the actor's spouse, is a person with ~~mental retardation~~ an intellectual disability or autism who receives therapeutic, residential or habilitative services from the organization, program or residence.

**Sec. A-85. 34-B MRSA §5005, sub-§1**, as enacted by PL 2007, c. 356, §17 and affected by §31, is amended to read:

**1. Establishment.** The Office of Advocacy, referred to in this section as "the office," is established within the department to provide the services described in subsection 3 to individuals with ~~mental retardation~~ intellectual disabilities or autism.

**Sec. A-86. 34-B MRSA §5005, sub-§2, ¶A**, as enacted by PL 2007, c. 356, §17 and affected by §31, is amended to read:

A. The chief advocate shall report administratively to the commissioner and advise and consult with and inform the commissioner on the issues described in this section. The chief advocate shall provide the commissioner with regular reports on the office's findings, conclusions and recommendations regarding individual and systemic violations of the rights of individuals with ~~mental retardation~~ intellectual disabilities or autism.

**Sec. A-87. 34-B MRSA §5005, sub-§3**, as enacted by PL 2007, c. 356, §17 and affected by §31, is amended to read:

**3. Duties.** The office, through the chief advocate and other advocates, shall:

A. Receive complaints made by or on behalf of individuals with ~~mental retardation~~ intellectual disabilities or autism and represent their interests in any matter pertaining to their rights and dignity;

B. Investigate the claims, grievances and allegations of violations of the rights of individuals with ~~mental retardation~~ intellectual disabilities or autism;

C. Intercede on behalf of individuals with ~~mental retardation~~ intellectual disabilities or autism with officials of any provider of service administered, licensed or funded by the department, except that the office may refuse to take action on any complaint that it considers to be trivial or moot or for which there is clearly another remedy available;

D. Assist individuals with ~~mental retardation~~ intellectual disabilities or autism in any hearing or grievance proceeding pertaining to their rights and dignity;

E. Refer individuals with ~~mental retardation~~ intellectual disabilities or autism to other agencies or entities and collaborate with those agencies or entities for the purpose of advocating for the rights and dignity of those individuals;

F. Act as an information source regarding the rights of all individuals with ~~mental retardation~~ intellectual disabilities or autism, keeping itself informed about all laws, administrative rules and institutional and other policies relating to the rights and dignity of those individuals and about relevant legal decisions and other developments related to the fields of mental health, ~~mental retardation~~ intellectual disabilities and autism, both in this State and in other parts of the country; and

G. Make and publish reports necessary to the performance of the duties described in this section. The chief advocate may report findings of the office to groups outside the department, such as legislative bodies, advisory committees, commissions, law enforcement agencies and the press, and may authorize the advocates in the office to so communicate. At least annually, the chief advocate shall report both in person and in writing to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the performance of the duties described in this section.

**Sec. A-88. 34-B MRSA §5005, sub-§4, ¶B,** as enacted by PL 2007, c. 356, §17 and affected by §31, is amended to read:

B. An advocate has concerns regarding the rights or dignity of a person with ~~mental retardation~~ an intellectual disability or autism.

**Sec. A-89. 34-B MRSA §5005, sub-§6, ¶A,** as enacted by PL 2007, c. 356, §17 and affected by §31, is amended to read:

A. Any request by or on behalf of an individual with ~~mental retardation~~ an intellectual disability or autism for action by the office and all written records or accounts related to the request are confidential as to the identity of the individual.

**Sec. A-90. 34-B MRSA §5005, sub-§7,** as enacted by PL 2007, c. 356, §17 and affected by §31, is amended to read:

**7. Protection for advocates.** Advocates may not be disciplined or sanctioned for any action taken pursuant to this section on behalf of individuals with ~~mental retardation~~ intellectual disabilities or autism.

**Sec. A-91. 34-B MRSA §5201, sub-§§2, 3 and 4,** as amended by PL 2007, c. 356, §18 and affected by §31, are further amended to read:

**2. Statewide system.** The planning, promotion, coordination and development of a complete and integrated statewide system of services for adults with ~~mental retardation~~ intellectual disabilities or autism;

**3. Liaison.** Serving as liaison, coordinator and consultant to the several state departments in order to develop the statewide system of services for adults with ~~mental retardation~~ intellectual disabilities or autism;

**4. Community-based services.** Ensuring that adults with ~~mental retardation~~ intellectual disabilities or autism residing in community residential facilities, including nursing homes, boarding homes, foster homes, group homes or halfway houses licensed by the Department of Health and Human Services, are provided, insofar as possible, with residential accommodations and access to habilitation services appropriate to their needs;

**Sec. A-92. 34-B MRSA §5201, sub-§§6 and 7,** as enacted by PL 2007, c. 356, §18 and affected by §31, are amended to read:

**6. Individual support coordinators.** Providing persons with ~~mental retardation~~ intellectual disabilities or autism who are eligible for MaineCare services with case management services.

A. Case management services as defined in rules may be provided by qualified staff employed by the department or a contracted agency.

B. Unless otherwise specified in personal planning:

(1) Case managers shall maintain at least monthly contact with each person in order to

ensure that the quality and availability of services and consumer satisfaction are maintained at a high level; and

(2) Visits to the person's home must occur at least twice a year.

C. The department shall ensure that case managers maintain adequate written and electronic records to permit monitoring and accountability.

D. The department shall provide sufficient numbers of case managers and supervisors to fulfill the duties specified in this subsection and shall maintain an overall ratio of one case manager to every 35 people in each region. The ratio must be calculated separately for staff employed by the department and by contracted agencies, and this ratio must be maintained for each group;

**7. Crisis and respite.** Provision of crisis and respite services to persons with ~~mental retardation~~ intellectual disabilities or autism in accordance with section 5206; and

**Sec. A-93. 34-B MRSA §5206**, as enacted by PL 2007, c. 356, §19 and affected by §31, is amended to read:

**§5206. Crisis and respite services**

The department shall provide crisis and respite services throughout the State in accordance with this section.

**1. Crisis services.** The department shall maintain the capacity to intervene in personal crises that could lead to the loss of the home, program or employment of a person with ~~mental retardation~~ an intellectual disability or autism. Such capacity must include:

A. Assessment, consultation, planning, training and support for persons with ~~mental retardation~~ intellectual disabilities or autism and their families or allies both before and after a crisis occurs;

B. Providing staff support to prevent or respond to a crisis at the site of the crisis when appropriate;

C. Ensuring mental health supports when necessary, including access to a licensed mental health provider, inpatient treatment when indicated, psychiatric services and mental health aftercare services; and

D. Identifying appropriate professional services for the person in crisis.

**2. Out-of-home services.** The department shall provide out-of-home services in accordance with this subsection.

A. The department shall maintain an adequate capacity to provide out-of-home safety and sup-

port by trained staff with appropriate professional backup resources for a person with ~~mental retardation~~ an intellectual disability or autism experiencing a crisis that cannot be safely managed at the person's residence.

B. Unless otherwise specified in personal planning, crisis intervention services must be provided at a person's home, program or workplace when prevention efforts are not successful. The services must assist with admission to an appropriate out-of-home service in the event that intervention in the home, program or workplace is inappropriate.

**3. Transportation.** The department may not routinely use law enforcement entities to transport persons with ~~mental retardation~~ intellectual disabilities or autism in crisis. Transportation of persons in crisis by law enforcement personnel may occur only if such transportation has been specifically authorized by the person's guardian or personal planning team or when determined by law enforcement personnel to be necessary to provide for the safety of the person or others.

**4. Post-crisis review.** A post-crisis review must occur no more than 10 working days after any out-of-home crisis placement. The review must include significant providers and supporters, including appropriate members of the person's planning team. The review must identify possible causes of the person's crisis and must recommend for the personal planning team changes in the person's environment, services and supports to prevent crises in the future.

**5. Respite services.** The department shall maintain and fund a statewide respite system for planned or unplanned respite for persons with ~~mental retardation~~ intellectual disabilities or autism and their families. The department shall, when appropriate, use the natural supports of a person in the development of respite services. For purposes of this subsection, "natural supports" means those supports provided by persons who are not disability service providers but who provide assistance, contact or companionship to enable a person with ~~mental retardation~~ an intellectual disability or autism to participate independently in employment or other community settings.

**6. Information regarding use.** The department shall maintain information regarding use of crisis and respite services sufficient to plan and budget for adequate crisis and respite services. The information must include an assessment of the needs, both met and unmet, for crisis and respite services. The department shall provide information regarding the availability of services under this section and the proper means to obtain them to persons with ~~mental retardation~~ intellectual disabilities or autism, their parents and allies, providers of services and other interested persons.

**7. Training.** The department shall offer regular and ongoing information, consultation and training on crisis prevention and intervention and respite services to its own staff, providers, and persons with ~~mental retardation~~ intellectual disabilities or autism and their families, guardians, correspondents and allies.

**Sec. A-94. 34-B MRSA §5431**, as enacted by PL 1983, c. 459, §7, is amended to read:

**§5431. Purpose**

The purpose of this Article is to assist in the establishment and expansion of community-based ~~mental retardation~~ adult developmental services and programs for ~~mentally retarded~~ persons with intellectual disabilities or autism residing in the community and residing in ~~privately operated~~ privately operated residential care facilities.

**Sec. A-95. 34-B MRSA §5432, sub-§1**, as enacted by PL 1983, c. 459, §7, is amended to read:

**1. Community participation.** Encourage persons in local communities to participate in the provision of supportive services for ~~mentally retarded~~ persons with intellectual disabilities or autism, so that persons in the community may have a better understanding of the need for those services;

**Sec. A-96. 34-B MRSA §5433, sub-§2**, as enacted by PL 1983, c. 459, §7, is amended to read:

**2. Services and programs.** Provide and help finance ~~mental retardation~~ adult developmental services and programs throughout the State for ~~mentally retarded~~ persons with intellectual disabilities or autism residing in the community and residing in ~~privately owned~~ privately owned residential care facilities;

**Sec. A-97. 34-B MRSA §5433, sub-§3**, as amended by PL 1985, c. 768, §6, is further amended to read:

**3. Cooperation.** Cooperate with other state agencies, municipalities, other governmental units, unincorporated associations and nonstock corporations in order to provide and help finance services and programs for ~~mentally retarded~~ persons with intellectual disabilities or autism;

**Sec. A-98. 34-B MRSA §5434, sub-§§1 and 3**, as enacted by PL 1983, c. 459, §7, are amended to read:

**1. Authorization.** A municipality or other governmental unit, such as a county, school district or health district, through its local board of health or other town or governmental agency approved by the commissioner, may adopt and carry out a program of ~~mental retardation~~ adult developmental services established or approved by the commissioner and appropriate money for that purpose.

**3. Grants.** Upon application to the department by a municipality or other governmental unit, the commissioner may grant to the applicant money to be used for carrying out its ~~mental retardation~~ adult developmental services, including any necessary capital expenditures or purchase of buildings.

**Sec. A-99. 34-B MRSA §5435, sub-§1**, as enacted by PL 1983, c. 459, §7, is amended to read:

**1. Department grants.** Upon application to the department by an unincorporated association or non-stock corporation organized for the improvement of community health and welfare, the commissioner may grant to the applicant money to be used for carrying out its ~~mental retardation~~ adult developmental services, including any necessary capital expenditures or purchase of buildings.

**Sec. A-100. 34-B MRSA §5435, sub-§2, ¶B**, as amended by PL 1995, c. 560, Pt. K, §53, is further amended to read:

B. The department shall give consideration to the ability of the municipality or governmental unit to support the ~~mental retardation~~ adult developmental services, as reflected by the State's evaluation of the component communities.

**Sec. A-101. 34-B MRSA §5437, first ¶**, as amended by PL 1995, c. 560, Pt. K, §54, is further amended to read:

The department shall establish a contingency fund for use by community-based intermediate care facilities for persons with ~~mental retardation~~ intellectual disabilities or autism and department clients residing in licensed boarding and foster homes or intermediate care facilities or participating in appropriate day treatment programs. This fund must be used in accordance with the following provisions.

**Sec. A-102. 34-B MRSA §5437, sub-§3, ¶A**, as enacted by PL 1985, c. 486, §2, is amended to read:

A. Payment for special client assessment and treatment services not reimbursed through the principles of reimbursement for intermediate care facilities for ~~the mentally retarded~~ persons with intellectual disabilities or autism;

**Sec. A-103. 34-B MRSA §5438**, as enacted by PL 2007, c. 152, §1, is amended to read:

**§5438. Services for adults with diagnoses of intellectual disabilities or other developmental disabilities**

To the extent possible using available resources, the department shall provide adults with diagnoses of ~~mental retardation~~ intellectual disabilities and other developmental disabilities choices from among an array of supports and services, including but not limited to: employment supports, personal supports, day

programs and residential services. The department shall pursue appropriate resources for the supports and services needed by adults covered under this chapter.

**Sec. A-104. 34-B MRSA §5461, sub-§§1, 2, 4 and 5,** as enacted by PL 1983, c. 459, §7, are amended to read:

**1. Advocate.** "Advocate" means a person:

A. Who is familiar with the procedures involved ~~both in admitting mentally retarded persons to a facility and in providing services to those persons with intellectual disabilities or autism;~~ and

B. Who is capable of advocating solely on behalf of a ~~mentally retarded~~ person with an intellectual disability or autism.

**2. Client.** "Client" means a person asking the department for ~~mental retardation~~ adult developmental services or the person for whom those services are asked.

**4. Comprehensive evaluation.** "Comprehensive evaluation" means a comprehensive set of evaluations ~~which that:~~

A. Results in the distinguishing of ~~mental retardation~~ intellectual disabilities and autism from other conditions;

B. Determines the severity of disability resulting from ~~mental retardation~~ an intellectual disability or autism and other conditions; and

C. Estimates the degree to which ~~mental retardation~~ the intellectual disability or autism and other conditions can be ameliorated.

**5. Facility.** "Facility" means a residential facility operated, administered, licensed or funded by the department to provide services for mentally retarded clients persons who have intellectual disabilities or autism.

**Sec. A-105. 34-B MRSA §5461, sub-§7-A,** ¶C, as enacted by PL 1983, c. 580, §11, is amended to read:

C. A reasonable certainty that severe physical or mental impairment or injury will result to the ~~mentally retarded~~ person who has an intellectual disability as manifested by recent evidence of his the person's actions or behavior ~~which that~~ demonstrates his an inability to avoid or protect ~~himself that person~~ from that impairment or injury and, after consideration of less restrictive treatment settings and modalities, a determination that suitable community resources for ~~his the person's~~ care are unavailable.

**Sec. A-106. 34-B MRSA §5461, sub-§8,** as enacted by PL 1983, c. 459, §7, is amended to read:

**8. Person in need of institutional services.** "Person in need of institutional services" means a person who, because of ~~mental retardation~~ an intellectual disability, autism or other related condition, and other severely disabling conditions, is unable to ~~care for himself~~ provide self-care and to avoid or protect ~~himself~~ that person from severe physical or psychological impairment, and who needs habilitation in an institutional setting designed to improve ~~his~~ the person's ability to care for and protect ~~himself~~ the person.

**Sec. A-107. 34-B MRSA §5461, sub-§10,** ¶B, as enacted by PL 1983, c. 580, §12, is amended to read:

B. Where licensure, certification or registration is not required, a person possessing a master's degree in the appropriate discipline or a person possessing a bachelor's degree in the appropriate discipline and 3 years' experience in treating ~~mentally retarded~~ persons with intellectual disabilities or autism or 3 years' experience in a related human services field.

**Sec. A-108. 34-B MRSA §5462,** as amended by PL 2003, c. 389, §6, is further amended to read:

**§5462. Procedure policies**

**1. Steps.** It is the policy of the State that, in order to ensure that ~~mentally retarded~~ persons with intellectual disabilities or autism receive needed services, to the extent possible, the following steps ~~shall~~ must be taken for each person found by the department to ~~be mentally retarded~~ have an intellectual disability or autism and be in need of services:

A. An assessment of the person's needs;

B. The development of a personal plan or service plan for the delivery and coordination of services to the person through a personal planning process;

C. A determination of the suitability and quality of needed services ~~which that~~ are available to the person, first in the community and 2nd in state-operated facilities; and

D. Insofar as possible, obtaining high quality and suitable services for the person.

**2. Persons involved with procedures.** It is the policy of the State that:

A. To the extent possible, the ~~mentally retarded~~ person with an intellectual disability or autism and his the person's guardian or next of kin be involved with the steps specified in subsection 1; and

B. An advocate be available to the ~~mentally retarded~~ person with an intellectual disability or autism throughout the steps specified in subsection 1.

**Sec. A-109. 34-B MRSA §5467, sub-§1**, as amended by PL 2003, c. 389, §9, is further amended to read:

**1. Application.** An application for ~~mental-retardation~~ adult developmental services, on a form provided by the commissioner, must be initiated at or referred to a regional office of the department. Except for referrals identifying a possible need for adult protective services, the department shall accept only those referrals to which the client or client's guardian has consented.

**Sec. A-110. 34-B MRSA §5467, sub-§2, ¶D**, as amended by PL 2003, c. 389, §9, is further amended to read:

D. Ensure the client's access to an advocate throughout the process of ~~mental-retardation~~ adult developmental services under sections 5467 to 5474;

**Sec. A-111. 34-B MRSA §5468, sub-§2**, as repealed and replaced by PL 1983, c. 580, §18, is amended to read:

**2. Comprehensive evaluation.** The comprehensive evaluation ~~shall~~ must be conducted by a person who is a licensed physician, licensed clinical psychologist or licensed psychological examiner and who has had training and experience in the diagnosis and treatment of ~~mentally-retarded~~ persons with intellectual disabilities or autism.

**Sec. A-112. 34-B MRSA §5469**, as amended by PL 2003, c. 388, §1 and c. 389, §§11 and 12, is further amended to read:

**§5469. Report**

Within 90 days of the day of the application made under section 5467, the department shall obtain a report of the comprehensive evaluation made under section 5468, which must state specifically whether or not the client ~~is mentally-retarded~~ has an intellectual disability or autism.

**1. Client without an intellectual disability or autism.** If the comprehensive evaluation concludes that the client ~~is not mentally-retarded~~ does not have an intellectual disability or autism, the department shall deny the application for services, care and treatment, but shall make appropriate referrals in cases where clear needs of the client exist.

**2. Client with an intellectual disability or autism.** If the comprehensive evaluation concludes that the client ~~is mentally-retarded~~ has an intellectual disability or autism and is in need of services:

A. The department, through the regional office, shall determine the client's case management status and develop a personal plan or service plan; and

B. The department, through the planning team, shall develop a personal plan or service plan for the client within 45 days of the date of the determination of eligibility. Implementation of the plan is governed by section 5471, subsection 4.

**3. Preschool child.** If the report of the comprehensive evaluation concludes that a child, aged 0 to 5 years, is developmentally delayed and is in need of infant development services or other early intervention services:

A. The department, through the regional office, shall develop a personal plan or service plan, or both; and

B. If a personal plan is to be developed, the department, through the planning team, shall develop and begin to implement a personal plan for the client within 60 days of the application made under section 5467.

**Sec. A-113. 34-B MRSA §5470-B, sub-§§1 to 4**, as enacted by PL 2007, c. 356, §21 and affected by §31, are amended to read:

**1. Right to personal planning.** Every adult with ~~mental-retardation~~ an intellectual disability or autism who is eligible for services must be provided the opportunity to engage in a personal planning process in which the needs and desires of the person are articulated and identified.

**2. Process.** The personal planning opportunities afforded to a person with ~~mental-retardation~~ an intellectual disability or autism pursuant to subsection 1 must:

A. Be understandable to that person and in plain language and, if that person is deaf or nonverbal, uses sign language or speaks another language, the process must include qualified interpreters;

B. Focus on the choices made by that person;

C. Reflect and support the goals and aspirations of that person;

D. Be developed at the direction of that person and include people whom the person chooses to participate. The planning process must minimally include the person, the person's guardian, if any, the correspondent, if any, and the person's case manager;

E. Be flexible enough to change as new opportunities arise;

F. Be offered to that person at least annually or on a schedule established through the planning process and be reviewed according to a specified schedule and by a person designated for monitoring;

G. Include all of the needs and desires of that person without respect to whether those desires

are reasonably achievable or the needs are presently capable of being addressed; and

H. Include a provision for ensuring the satisfaction of that person with the quality of the plan and the supports that the person receives.

**3. Action plans and unmet needs.** The ongoing personal planning for a person with ~~mental retardation~~ an intellectual disability or autism must include an action plan that describes the services to be provided, the process of providing the services and who is responsible for overseeing the provision of the services. In cases where resources required to address identified needs or desires are not available, the action plan must identify interim measures based on available resources that address the needs or desires as nearly as possible and identify steps toward meeting the person's actual identified needs.

Unmet needs must be documented continually, collated annually and used for appropriate development activities on a regional and statewide basis.

**4. Review of personal plans.** The person with ~~mental retardation~~ an intellectual disability or autism or another member of the planning team may initiate a review of the person's personal plan when needed or desired.

A. A review under this subsection must be done by meeting or by other means sufficient to address the needed or desired changes. The review must include the person, the person's guardian, if any, and the person's case manager. Invitations to participate may also be sent to others who may be anticipated to assist the person in pursuing articulated needs and desires unless the person or a private guardian objects.

B. Events that could lead to the loss of the person's home, job or program and events defined in a departmental rule or in the person's plan must lead to a plan review.

**Sec. A-114. 34-B MRSA §5470-B, sub-§8,** ¶B, as enacted by PL 2007, c. 356, §21 and affected by §31, is amended to read:

B. The department shall ensure the provision of regular and ongoing training in personal planning to persons with ~~mental retardation~~ intellectual disabilities or autism and their families, guardians, correspondents and allies as well as its own staff and providers. The department shall regularly provide persons with ~~mental retardation~~ intellectual disabilities or autism and their families, guardians and allies with informational materials regarding personal planning.

**Sec. A-115. 34-B MRSA §5474, sub-§3,** as enacted by PL 1983, c. 459, §7, is amended to read:

**3. Emergency admission.** When immediate detention of a person believed to ~~be mentally retarded~~ have an intellectual disability or autism is necessary, the person may be temporarily restrained in accordance with section 5477.

**Sec. A-116. 34-B MRSA §5475, sub-§2,** ¶C, as amended by PL 2003, c. 389, §18, is further amended to read:

C. Unless waived by a client and the client's counsel, cause the client who is the subject of the proceeding to be examined by a professional.

(1) The client or the client's counsel may choose the professional, if the professional the client chooses is reasonably available.

(2) The professional may not be the same one who performed any part of the evaluation required under section 5468 or who participated in the development of the personal plan or service plan.

(3) Upon completion of the examination, the professional shall report to the court the professional's opinion whether the client ~~is mentally retarded~~ has an intellectual disability or autism and requires treatment, stating the professional's reasons for the professional's opinion;

**Sec. A-117. 34-B MRSA §5476,** as amended by PL 2003, c. 389, §19, is further amended to read:

**§5476. Judicial commitment**

Any client recommended for admission to a ~~mental retardation~~ facility that provides services for persons with intellectual disabilities or autism may be admitted by judicial commitment according to the following procedures.

**1. Application to the District Court.** If the chief administrative officer of the facility determines that the admission of the client pursuant to section 5473, subsection 2, is not suitable, or if the client declines admission pursuant to section 5473, subsection 2, the chief administrative officer may apply to the District Court having territorial jurisdiction over the facility for the issuance of an order of judicial commitment.

**2. Time of application.** The chief administrative officer shall file the application within 5 days from the day of admission of the client under this section, excluding Saturdays, Sundays and legal holidays.

**3. Accompanying documents.** The application ~~shall~~ must be accompanied by:

A. A written application, made subject to the prohibitions and penalties of section 3805 and made by any health officer, law enforcement officer or other person, stating:

(1) ~~His~~ The belief that the client ~~is mentally retarded~~ has an intellectual disability or autism and poses a likelihood of serious harm; and

(2) The grounds for this belief;

B. A dated certificate, signed by a private licensed physician or a private licensed clinical psychologist, stating that:

(1) ~~He~~ The physician or psychologist has examined the client on the date of the certificate, which date may not be more than 3 days before the date of admission to the facility; and

(2) ~~He~~ The physician or psychologist is of the opinion that the client ~~is mentally retarded~~ has an intellectual disability or autism and poses a likelihood of serious harm; and

C. A certificate of the facility's examining physician or psychologist, stating that ~~he~~ the physician or psychologist has examined the client and ~~is~~ is ~~of the opinion that the client is mentally retarded~~ has an intellectual disability or autism and poses a likelihood of serious harm:

(1) The examiner may not be the certifying examiner under paragraph B; and

(2) If the examination is not held within 24 hours after the time of admission or if the facility's examining physician or psychologist fails or refuses to make the required certification, the client ~~shall~~ must be immediately discharged.

**4. Notice of receipt of application.** The giving of notice of receipt of application under this section is governed as follows.

A. Upon receipt by the District Court of the application and accompanying documents specified in this section, the court shall cause written notice of the application:

(1) To be given personally or by mail to the client within a reasonable time before the hearing, but not less than 3 days before the hearing; and

(2) To be mailed to the client's guardian, if known, and to ~~his~~ the client's spouse, ~~his~~ the client's parent or one of ~~his~~ the client's adult children, or if none of these persons exist or if none of them can be located, to one of ~~his~~ the client's next of kin or an advocate.

B. A docket entry is sufficient evidence that notice under this subsection has been given.

**5. Examination.** Examinations under this section are governed as follows.

A. Upon receipt by the District Court of the application and the accompanying documents specified in this section, the court shall forthwith cause the client to be examined by 2 examiners.

(1) Each examiner ~~shall~~ must be either a licensed physician or a licensed clinical psychologist.

(2) One of the examiners ~~shall~~ must be a physician or psychologist chosen by the client or by ~~his~~ the client's counsel, if the chosen physician or psychologist is reasonably available.

(3) Neither examiner appointed by the court may be the certifying examiner under subsection 3, paragraph B or C.

B. The examination ~~shall~~ must be held at the facility or at any other suitable place not likely to have a harmful effect on the well-being of the client.

C. If the unanimous reports of the examiners are to the effect that the client ~~is not mentally retarded~~ does not have an intellectual disability or autism or does not pose a likelihood of serious harm, the application ~~shall~~ must be dismissed and the client ~~shall~~ be ordered discharged forthwith.

D. If the report of either or both of the examiners is to the effect that the client ~~is mentally retarded~~ has an intellectual disability or autism and poses a likelihood of serious harm, the hearing ~~shall~~ must be held on the date, or on the continued date, ~~which~~ that the court has set for the hearing.

**6. Hearing.** Hearings under this section are governed as follows.

A. The District Court shall hold a hearing on the application not later than 15 days from the date of the application.

(1) On a motion by any party, the hearing may be continued for cause for a period not to exceed 10 additional days.

(2) If the hearing is not held within the time specified, or within the specified continuance period, the court shall dismiss the application and order the client discharged forthwith.

(3) In computing the time periods set forth in this paragraph, the District Court Rules of Civil Procedure ~~shall~~ apply.

B. The hearing ~~shall~~ must be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the well-being of the person.

C. The court shall receive all relevant and material evidence ~~which~~ that may be offered in accor-

dance with accepted rules of evidence and accepted judicial dispositions.

- (1) The client, the applicant and all other persons to whom notice is required to be sent ~~shall~~ must be afforded an opportunity to appear at the hearing to testify.
- (2) The client and the applicant ~~shall~~ must be afforded the opportunity to cross-examine witnesses.
- (3) The court may, in its discretion, receive the testimony of any other person and may subpoena any witness.

D. The client ~~shall~~ must be afforded an opportunity to be represented by counsel and, if neither the client nor others provide counsel, the court shall appoint counsel for the client.

E. In addition to proving that the client ~~is mentally retarded~~ has an intellectual disability or autism, the applicant shall show:

- (1) By evidence of the client's actions and behavior, that the client poses a likelihood of serious harm; and
- (2) That after full consideration of less restrictive treatment settings and modalities, judicial commitment to a ~~mental retardation~~ facility that provides services for persons with intellectual disabilities or autism is the ~~best~~ least restrictive available means for the treatment or security of the client.

F. In each case, the applicant shall submit to the court, at the time of the hearing, testimony indicating the individual treatment plan to be followed by the facility's staff, if the client is committed under this section, and shall bear any expense for this purpose.

G. A stenographic or electronic record ~~shall~~ must be made of the proceedings in all judicial commitment hearings.

- (1) The record, all notes, exhibits and other evidence ~~shall be~~ are confidential.
- (2) The record, all notes, exhibits and other evidence ~~shall~~ must be retained as part of the District Court records for a period of 2 years from the date of the hearing.

H. The hearing ~~shall be~~ is confidential. No report of the proceedings may be released to the public or press, except by permission of the client, or ~~his~~ the client's counsel and with approval of the presiding District Court Judge, except that the court may order a public hearing on the request of the client or ~~his~~ the client's counsel.

**7. Court findings.** Procedures dealing with the District Court's findings under this section are as follows.

A. The District Court shall so state in the record, if it finds upon completion of the hearing and consideration of the record:

- (1) Clear and convincing evidence that the client ~~is mentally retarded~~ has an intellectual disability and that ~~his~~ the client's recent actions and behavior demonstrate that ~~he~~ the client poses a likelihood of serious harm;
- (2) That judicial commitment to the facility is the best available means for treatment or security of the client; and
- (3) That it is satisfied with the individual treatment plan offered by the facility.

B. If the District Court makes the findings described in paragraph A, subparagraphs 1 and 2, but is not satisfied with the individual treatment plan offered, it may continue the case for not longer than 10 days, pending reconsideration and resubmission of an individual treatment plan by the facility.

**8. Commitment.** Upon making the findings described in subsection 7, the court may order commitment of the client to the facility for a period not to exceed 4 months in the first instance and not to exceed one year after the first and all subsequent hearings.

A. The court may issue an order of commitment immediately after the completion of the hearing or it may take the matter under advisement and issue an order within 24 hours of the hearing.

B. If the court does not issue an order of commitment within 24 hours of the completion of the hearing, it shall dismiss the application and shall order the person discharged forthwith.

**9. Continued judicial commitment.** If the chief administrative officer of the facility determines that continued judicial commitment is necessary for a person who has been ordered by the District Court to be committed, ~~he~~ the officer shall, not later than 30 days prior to the expiration of a period of commitment ordered by the court, make application in accordance with this section to the District Court ~~which~~ that has territorial jurisdiction over the facility for a hearing to be held under this section.

**10. Transportation.** Unless otherwise directed by the court, the sheriff of the county in which the District Court has jurisdiction and in which the hearing takes place shall provide transportation to any facility to which the court has committed the person.

**11. Expenses.** With the exception of expenses incurred by the applicant pursuant to subsection 6, paragraph F, the District Court ~~shall be~~ is responsible for

any expenses incurred under this section, including fees of appointed counsel, witness and notice fees and expenses of transportation for the person.

**12. Appeals.** A person ordered by the District Court to be committed to the facility may appeal from that order to the Superior Court.

A. The appeal ~~shall~~ must be on questions of law only.

B. Any findings of fact of the District Court may not be set aside unless clearly erroneous.

C. The order of the District Court ~~shall remain~~ remains in effect pending the appeal.

D. The District Court Rules of Civil Procedure and the Maine Rules of Civil Procedure apply to the conduct of the appeals, except as otherwise specified in this subsection.

**13. Rules.** If necessary, the commissioner shall ~~promulgate~~ adopt rules for the effective implementation of this section.

**Sec. A-118. 34-B MRSA §5477, sub-§1,** as amended by PL 1983, c. 580, §24, is further amended to read:

**1. Protective custody.** If a law enforcement officer has reasonable grounds to believe, based upon his personal observation, that a person may ~~be mentally retarded~~ have an intellectual disability, that ~~he~~ the person presents a threat of imminent and substantial physical ~~harm to himself~~ self-harm or harm to other persons and that an emergency exists requiring immediate residential placement:

A. The officer may take the person into protective custody; and

B. If the officer does take the person into protective custody, the officer shall deliver the person forthwith, within 18 hours, for examination by an available licensed physician or licensed psychologist as provided in subsection 4.

**Sec. A-119. 34-B MRSA §5477, sub-§4,** ~~¶B~~, as enacted by PL 1983, c. 459, §7, is amended to read:

B. The written application ~~shall~~ must be accompanied by a dated certificate, signed by a licensed physician or a licensed clinical psychologist, stating:

(1) ~~He~~ The physician or psychologist has examined the person on the date of the certificate, which date may not be more than 3 days before the date of admission to the facility; and

(2) ~~He~~ The physician or psychologist is of the opinion that the person ~~is a mentally retarded person~~ has an intellectual disability

and is in need of institutional protective services.

**Sec. A-120. 34-B MRSA §5478, sub-§1,** as repealed and replaced by PL 1983, c. 580, §26, is amended to read:

**1. Authority to continue treatment.** A client who has been admitted to a facility by judicial certification, or who has been retained in a facility pursuant to this section, may continue extended care and treatment in that facility for an additional period, not to exceed 2 years, only after judicial certification under section 5474 or after waiver of that process as provided in this section, except that waiver of the judicial certification process is not permitted for any ~~mentally retarded~~ person with an intellectual disability under public guardianship.

**Sec. A-121. 34-B MRSA §5601, sub-§5,** as amended by PL 1993, c. 326, §3, is further amended to read:

**5. Normalization principle.** "Normalization principle" means the principle of assisting the person with ~~mental retardation~~ an intellectual disability or autism to obtain an existence as close to normal as possible and making available to that person patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

**Sec. A-122. 34-B MRSA §5601, sub-§5-A,** as amended by PL 2011, c. 186, Pt. A, §5, is further amended to read:

**5-A. Person receiving services.** "Person receiving services" means a person with ~~mental retardation~~ an intellectual disability or autism receiving services from the department or from an agency or facility licensed or funded to provide services to persons with ~~mental retardation~~ intellectual disabilities or autism except those presently serving sentences for crime.

**Sec. A-123. 34-B MRSA §5601, sub-§5-B,** as enacted by PL 2011, c. 186, Pt. A, §6, is amended to read:

**5-B. Provider.** "Provider" means an entity, organization or individual providing services to an adult with ~~mental retardation~~ an intellectual disability or autism, funded in whole or in part or licensed or certified by the department.

**Sec. A-124. 34-B MRSA §5601, sub-§7-A,** as amended by PL 2011, c. 186, Pt. A, §11, is further amended to read:

**7-A. Supports.** "Supports" means actions or assistance that empowers a person with ~~mental retardation~~ an intellectual disability or autism to carry out life activities, build relationships and learn the skills necessary to meet the person's needs and desires.

**Sec. A-125. 34-B MRSA §5602**, as amended by PL 1993, c. 326, §8, is further amended to read:

**§5602. Purpose**

It is the intent of the Legislature to guarantee individual dignity, liberty, pursuit of happiness and the protection of the civil and legal rights of persons with ~~mental retardation~~ intellectual disabilities or autism and to articulate rights of persons with ~~mental retardation~~ intellectual disabilities or autism, so that these rights may be exercised and protected.

**Sec. A-126. 34-B MRSA §5603**, as amended by PL 2011, c. 186, Pt. A, §14, is further amended to read:

**§5603. Entitlement**

Each person with ~~mental retardation~~ an intellectual disability or autism is entitled to the rights enjoyed by citizens of the State and of the United States, unless some of these rights have been limited or suspended by a court of competent jurisdiction.

**1. Person committed to the commissioner.** The rights and basic protections set out in section 5605 of a person with ~~mental retardation~~ an intellectual disability or autism who is committed to the commissioner as not criminally responsible pursuant to Title 15, section 103 or as incompetent to stand trial pursuant to Title 15, section 101-D may be limited or suspended only if the commissioner submits to the applicable court a written treatment plan that specifies each limitation of a right or basic protection and the treatment plan has been approved by the court.

**Sec. A-127. 34-B MRSA §5604**, as amended by PL 2011, c. 186, Pt. A, §§15 to 17, is further amended to read:

**§5604. Protection**

The Legislature finds and declares that the rights of persons with ~~mental retardation~~ intellectual disabilities or autism can be protected best under a system of services that operates according to the principles of normalization and full inclusion and that the State's system of services must operate according to these principles with the goals of:

**1. Community-based services.** Continuing the development of community-based services that provide reasonable alternatives to institutionalization in settings that are least restrictive to the person receiving services;

**2. Independence and productivity.** Providing habilitation, education and other training to persons with ~~mental retardation~~ intellectual disabilities or autism that will maximize each person's potential to lead an independent and productive life and that will afford opportunities for full inclusion into the community where each person lives; and

**3. Grievance right.** Providing a person with ~~mental retardation~~ an intellectual disability or autism with the right to appeal a decision regarding actions or inactions by the department that affects the person's life. The department shall establish in rule a process for hearing such grievances pursuant to Title 22-A, section 206, subsection 4. The rules must contain strict time frames for the resolution of grievances. The rules may provide for resolution of grievances through mediation.

A. The department shall provide easily accessible and regular notice of the grievance process to persons with ~~mental retardation~~ intellectual disabilities or autism served by the department. This notice must be included in informational materials provided to such persons, as well as to guardians, families, correspondents and allies. Notice of the right to appeal must be prominently displayed in regional offices and on the department's publicly accessible website and must be readily available from provider agencies. Notice of the right to appeal must be included in all substantive correspondence regarding personal planning. Written notice of the right to appeal must also be provided when there is a denial or reduction of services or supports to persons served by the department. All notices and information regarding the grievance process must be written in language that is plain and understandable and must include the address and telephone number of the Office of Advocacy and the protection and advocacy agency designated pursuant to Title 5, section 19502.

B. The department must make available a one-page form that enables a person with ~~mental retardation~~ an intellectual disability or autism to file a grievance. A grievance may also be filed through an oral request. If a grievance is filed through an oral request, the person receiving the grievance shall reduce the grievance to writing using a one-page form made available by the department.

C. The department shall offer regular training in the grievance process for persons served by the department, their families, guardians and allies and department and service provider staff.

D. If an appeal proceeds to a hearing, the hearing officer's decision constitutes final agency action for the purposes of Rule 80C of the Maine Rules of Civil Procedure unless final decision-making authority has been reserved by the commissioner. If the commissioner makes the final decision and modifies or rejects the hearing officer's recommended decision, the commissioner must state in writing the basis for the commissioner's decision. When the commissioner rejects or modifies a hearing officer's factual findings or makes additional factual findings, the commissioner shall ar-

ticulate the evidentiary basis for such rejection or modification with appropriate references to the record. The commissioner shall give substantial deference to a hearing officer's determinations on matters of credibility relating to testimony that was heard by the hearing officer, and when rejecting or modifying such determinations of credibility, the commissioner shall state with particularity the reasons with appropriate references to evidence in the record. In the event the commissioner fails to issue a written final decision within 30 days of the date of the recommended decision, the recommended decision of the hearing officer is deemed the final decision of the commissioner.

The rights and basic protections of a person with ~~mental retardation~~ an intellectual disability or autism under section 5605 may not be restricted or waived by that person's guardian, except as permitted by rules adopted pursuant to this section.

The department has authority to adopt rules to implement this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. A-128. 34-B MRSA §5604-A, sub-§§2 and 3,** as enacted by PL 2007, c. 356, §24 and amended by §31, are amended to read:

**2. Maintain reporting system.** The department shall maintain a reportable event and adult protective services system that provides for receiving reports of alleged incidents, prioritizing such reports, assigning reports for investigation by qualified investigators, reviewing the adequacy of the investigations, making recommendations for preventive and corrective actions as appropriate and substantiating allegations against individuals who have been found under the Adult Protective Services Act to have abused, neglected or exploited persons with ~~mental retardation~~ intellectual disabilities or autism. The department shall fully establish the reportable event and adult protective services system through rulemaking.

**3. Violation.** All persons with knowledge of an alleged violation of the rights of an individual with ~~mental retardation~~ an intellectual disability or autism as set out in section 5605 shall promptly report the details of the alleged violation to the Office of Advocacy as set forth in department rules.

**Sec. A-129. 34-B MRSA §5605,** as amended by PL 2011, c. 186, Pt. A, §§18 to 34, is further amended to read:

**§5605. Rights and basic protections of a person with an intellectual disability or autism**

A person with ~~mental retardation~~ an intellectual disability or autism is entitled to the following rights and basic protections.

**1. Humane treatment.** A person with ~~mental retardation~~ an intellectual disability or autism is entitled to dignity, privacy and humane treatment.

**2. Practice of religion.** A person with ~~mental retardation~~ an intellectual disability or autism is entitled to religious freedom and practice without any restriction or forced infringement on that person's right to religious preference and practice.

**3. Communications.** A person with ~~mental retardation~~ an intellectual disability or autism is entitled to private communications.

A. A person with ~~mental retardation~~ an intellectual disability or autism is entitled to receive, send and mail sealed, unopened correspondence. A person who is a provider may not delay, hold or censor any incoming or outgoing correspondence of any person with ~~mental retardation~~ an intellectual disability or autism, nor may any such correspondence be opened without the consent of the person or the person's legal guardian.

B. A person with ~~mental retardation~~ an intellectual disability or autism is entitled to reasonable opportunities for telephone and Internet communication.

C. A person with ~~mental retardation~~ an intellectual disability or autism is entitled to an unrestricted right to visitations during reasonable hours unless this right has been restricted pursuant to rules adopted pursuant to section 5604.

**4. Work.** A person with ~~mental retardation~~ an intellectual disability or autism engaged in work programs that require compliance with state and federal wage and hour laws is entitled to fair compensation for labor in compliance with regulations of the United States Department of Labor.

**5. Vote.** A person with ~~mental retardation~~ an intellectual disability or autism may not be denied the right to vote.

**6. Personal property.** A person with ~~mental retardation~~ an intellectual disability or autism is entitled to the possession and use of that person's own clothing, personal effects and money, except when temporary custody of clothing or personal effects by a provider is necessary to protect the person or others from imminent injury or unless this right has been restricted pursuant to rules adopted pursuant to section 5604.

**7. Nutrition.** A person with ~~mental retardation~~ an intellectual disability or autism is entitled to nutritious food in adequate quantities and meals may not be withheld for disciplinary reasons.

**8. Medical care.** A person with ~~mental retardation~~ an intellectual disability or autism is entitled to receive prompt and appropriate medical and dental treatment and care for physical and mental ailments

and for the prevention of any illness or disability, and medical treatment must be consistent with the accepted standards of medical practice in the community, unless the religion of the person with ~~mental retardation~~ an intellectual disability or autism so prohibits.

A. Medication may be administered only at the written order of a physician.

B. Medication may not be used as punishment, for the convenience of staff, as a substitute for a habilitation plan or in unnecessary or excessive quantities.

C. Daily notation of medication received by each person with ~~mental retardation~~ an intellectual disability or autism must be kept in the records of the person with ~~mental retardation~~ an intellectual disability or autism.

D. Periodically, but no less frequently than every 6 months, the drug regimen of each person with ~~mental retardation~~ an intellectual disability or autism must be reviewed by a physician or other appropriate monitoring body, consistent with appropriate standards of medical practice.

E. All prescriptions must have a termination date.

G. Prior to instituting a plan of experimental medical treatment or carrying out any surgical procedure, express and informed consent must be obtained from the person with ~~mental retardation~~ an intellectual disability or autism, unless the person has been found to be legally incompetent, in which case the person's guardian may consent.

(1) Before making a treatment or surgical decision, the person must be given information, including, but not limited to, the nature and consequences of the procedures, the risks, benefits and purposes of the procedures and the availability of alternate procedures.

(2) The person or, if legally incompetent, that person's guardian may withdraw express and informed consent at any time, with or without cause, before treatment or surgery.

H. Notwithstanding the absence of express and informed consent, emergency medical care or treatment may be provided to any person with ~~mental retardation~~ an intellectual disability or autism who has been injured or who is suffering from an acute illness, disease or condition if delay in initiation of emergency medical care or treatment would endanger the health of the person.

I. Notwithstanding the absence of express and informed consent, emergency surgical procedures may be provided to any person with ~~mental retardation~~ an intellectual disability or autism who has been injured or who is suffering from an acute ill-

ness, disease or condition if delay in initiation of emergency surgery would substantially endanger the health of the person.

**9. Sterilization.** A person with ~~mental retardation~~ an intellectual disability or autism may not be sterilized, except in accordance with chapter 7.

**10. Social activity.** A person with ~~mental retardation~~ an intellectual disability or autism is entitled to opportunities for behavioral and leisure time activities that include social interaction in the community, as set out in section 5610. This right may be waived or restricted only under the rules adopted pursuant to section 5604 or pursuant to a treatment plan approved pursuant to section 5603, subsection 1.

**11. Physical exercise.** A person with ~~mental retardation~~ an intellectual disability or autism is entitled to opportunities for appropriate physical exercise, including the use of available indoor and outdoor facilities and equipment.

**12. Discipline.** Discipline of persons with ~~mental retardation~~ intellectual disabilities or autism is governed as follows.

B. Corporal punishment or any form of inhumane discipline is not permitted.

C. Seclusion as a form of discipline is not permitted.

E. A provider of residential services may establish house rules in a residential unit owned or operated by the provider. A person receiving services who resides in the unit is entitled to participate, as appropriate, in the formulation of the house rules. A house rule must be uniformly applied to all residents of the residential unit where the rules apply. A copy of the house rules must be posted in a residential unit where the rules apply and a copy of the rules must be given to all residents who receive services and, if any resident is under guardianship, to the guardian of the person receiving services.

**13. Behavioral support, modification and management.** Behavior modification and behavior management of and supports for a person with ~~mental retardation~~ an intellectual disability or autism are governed as follows.

A. A person with ~~mental retardation~~ an intellectual disability or autism may not be subjected to a behavior modification or behavior management program to eliminate dangerous or maladaptive behavior without first being assessed by a physician to determine if the proposed program is medically contraindicated and that the dangerous or maladaptive behavior could not be better treated medically.

A-1. Support programs may contain both behavior modification and behavior management components.

A-2. The following practices are prohibited as elements of behavior modification or behavior management programs:

- (1) Seclusion;
- (2) Corporal punishment;
- (3) Actions or language intended to humble, dehumanize or degrade the person;
- (4) Restraints that do not conform to rules adopted pursuant to this section;
- (5) Totally enclosed cribs or beds; and
- (6) Painful stimuli.

B. Behavior modification and behavior management programs may be used only to correct behavior more harmful to the person than the program and only:

- (1) On the recommendation of the person's personal planning team;
- (2) For an adult 18 years of age or older, with the approval, following a case-by-case review, of a review team composed of an advocate from the Office of Advocacy; a representative designated by the Office of Adults with Cognitive and Physical Disability Services; and a representative designated by the Maine Developmental Services Oversight and Advisory Board; and
- (3) For a child under 18 years of age, with the approval, following a case-by-case review, of a review team composed of an advocate from the Office of Advocacy, a team leader of the department's children's services division and the children's services medical director or the director's designee. Until rules are adopted by the department to govern behavioral treatment reviews for children, the team may not approve techniques any more aversive or intrusive than are permitted in rules adopted by the Secretary of the United States Department of Health and Human Services regarding treatment of children and youth in nonmedical community-based facilities funded under the Medicaid program.

**14-A. Restraints.** A person with ~~mental retardation~~ an intellectual disability or autism is entitled to be free from restraint unless:

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

B. The restraint has been approved as a behavior management program in accordance with this section.

A restraint may not be used as punishment, for the convenience of the staff or as a substitute for habilitative services. A 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 restraint may not cause physical injury to the person receiving services and must be designed to allow the greatest possible comfort and safety.

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

Daily records of the use of 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 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.

**14-D. Reimbursement provided.** Notwithstanding any other provision of law, the department shall provide reimbursement within available resources for durable medical equipment that provides a safe sleeping environment for individuals under 16 years of age if:

- A. The durable medical equipment is necessary to correct or ameliorate a behavioral health condition;
- B. The durable medical equipment is the least restrictive alternative for the treatment of the behavioral health condition;
- C. The durable medical equipment is approved on a case-by-case basis by a review team composed of the same representatives as the team conducting children's behavioral treatment reviews under subsection 13, paragraph B, subparagraph (3); and
- D. The department determines that the durable medical equipment is cost-effective in comparison to the provision of other covered services or equipment that can sufficiently correct or ameliorate the behavioral health condition.

The department may adopt rules as necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**15. Records.** All records of persons receiving services must remain confidential as provided in section 1207.

A. The person with ~~mental retardation~~ an intellectual disability or autism or, if the person is incompetent, a parent or guardian is entitled to have access to the records upon request.

B. The commissioner is entitled to have access to the records of a provider if necessary to carry out the statutory functions of the commissioner's office.

**16. Therapeutic devices or interventions.** Therapeutic devices or interventions must be prescriptively designed by a qualified professional and applied with concern for principles of good body alignment and circulation and allowance for change of position. The department may adopt rules concerning the use of therapeutic devices or interventions. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**17. Safety devices and practices.** A safety device or practice must be prescribed by a physician. A safety device must be designed and applied with concern for principles of good body alignment and circulation and allowance for change of position. The department may adopt rules concerning the use and approval of safety devices or practices. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

The department may adopt rules as necessary to implement this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. A-130. 34-B MRSA §5606, sub-§3,** as amended by PL 1993, c. 326, §10, is further amended to read:

**3. Prohibited acts; penalty; defense.** A person is guilty of violation of the rights of a person with ~~mental retardation~~ an intellectual disability or autism who is receiving services if that person intentionally violates or abuses any rights or privileges of persons receiving services granted by this subchapter.

A. Violation of the rights of a person with ~~mental retardation~~ an intellectual disability or autism who is receiving services is a Class E crime.

B. Good-faith compliance with the provisions of this subchapter in connection with evaluation, admission, habilitation programming, education, treatment or discharge of a person receiving services is a defense to prosecution under this subchapter.

**Sec. A-131. 34-B MRSA §5610, sub-§1,** as enacted by PL 2007, c. 356, §27 and affected by §31, is amended to read:

**1. Guiding service delivery.** The delivery of services by providers of services and the department to persons with ~~mental retardation~~ intellectual disabilities and autism is guided by the following.

A. Persons with ~~mental retardation~~ intellectual disabilities or autism have the same rights as all citizens, including the rights to live, work and participate in the life of the community.

B. Community inclusion is achieved by connecting persons and their families, whenever possible, to local and generic supports within the community and by the use of residential services that are small and integrated into the community.

C. Real work for real pay for persons in integrated settings in the community is the cornerstone of all vocational and employment services.

D. Service delivery to persons with ~~mental retardation~~ intellectual disabilities and autism is based on the following fundamentals:

(1) Maximizing the growth and development of the person and inclusion in the community;

(2) Maximizing the person's control over that person's life;

(3) Supporting the person in that person's own home;

(4) Acknowledging and enhancing the role of the family, as appropriate, as the primary and most natural caregiver; and

(5) Planning for the delivery of community services that:

(a) Promotes a high quality of life;

(b) Is based on ongoing individualized assessment of the strengths, needs and preferences of the person and the strengths of that person's family; and

(c) Identifies and considers connections in other areas of the person's life, including but not limited to family, allies, friends, work, recreation and spirituality.

**Sec. A-132. 34-B MRSA §6001,** as amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**§6001. Legislative intent**

It is the intent of the Legislature that social and habilitative services directed at persons who have been diagnosed as ~~being autistic~~ having autism or ~~having~~ other pervasive developmental disorders be developed and planned for, to the extent that resources permit, by the Department of Health and Human Services ~~through the Division of Mental Retardation.~~

**Sec. A-133. 34-B MRSA §6201, sub-§2**, as amended by PL 1995, c. 560, Pt. K, §67, is further amended to read:

**2. Child in need of treatment.** "Child in need of treatment" means:

B. A child 17 years of age or younger who has treatment needs related to mental illness, ~~mental retardation~~ an intellectual disability, autism, ~~other~~ developmental disabilities or emotional or behavioral needs that are not under current statutory authority of other state agencies; or

C. A person 18 years of age or older and under 21 years of age who has treatment needs related to mental illness, ~~mental retardation~~ an intellectual disability, autism, ~~other~~ developmental disabilities or emotional or behavioral needs if the department has determined that it is in the interest of that person to receive treatment through the department.

**Sec. A-134. 34-B MRSA §6205**, as amended by PL 2003, c. 706, Pt. A, §14, is further amended to read:

**§6205. Services for juveniles committed to the youth development centers**

**1. Department authority.** The department may provide consultation services to any juvenile with ~~mental retardation~~ an intellectual disability or autism committed to the Long Creek Youth Development Center or the Mountain View Youth Development Center if those services are requested by the Commissioner of Corrections or the commissioner's designee. Consultation services may include participation by appropriate department professionals on the Classification Committee of the Long Creek Youth Development Center or the Classification Committee of the Mountain View Youth Development Center in order to assist in the design of individual treatment plans to provide habilitation, education and skill training to juveniles with ~~mental retardation~~ an intellectual disability or autism in residence at the Long Creek Youth Development Center or the Mountain View Youth Development Center.

**2. Support services.** Whenever a program has been designed for a juvenile with ~~mental retardation~~ an intellectual disability or autism by the Classification Committee of the Long Creek Youth Development Center or the Classification Committee of the Mountain View Youth Development Center and the classification committee has included participation by the department professionals, the department shall provide, insofar as possible, support services to implement that program.

**3. Case management.** The department may provide case management services to juveniles with ~~mental retardation~~ intellectual disabilities or autism who are released from the Long Creek Youth Development

Center or the Mountain View Youth Development Center.

**Sec. A-135. 36 MRSA §1760, sub-§28**, as amended by PL 1999, c. 708, §28; PL 2001, c. 354, §3; and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**28. Community mental health facilities, community adult developmental services facilities and community substance abuse facilities.** Sales to mental health facilities, ~~mental retardation~~ adult developmental services facilities or substance abuse facilities that are:

A. Contractors under or receiving support under the Federal Community Mental Health Centers Act, or its successors; or

B. Receiving support from the Department of Health and Human Services pursuant to Title 5, section 20005 or Title 34-B, section 3604, 5433 or 6204.

**Sec. A-136. 36 MRSA §2551, sub-§1-B**, as amended by PL 2007, c. 539, Pt. DDD, §2, is further amended to read:

**1-B. Community support services for persons with intellectual disabilities or autism.** "Community support services for persons with ~~mental retardation~~ intellectual disabilities or autism" means services:

A. That are provided by community-based agencies to children or adults with ~~mental retardation~~ intellectual disabilities or autism and include assistance with the acquisition, retention or improvement of self-help, socialization and adaptive living skills; and

B. That take place in a nonresidential setting separate from the home or facility in which the child or adult resides, except when a physician has ordered that such services be provided in the child's or adult's home, and focus on enabling the child or adult to attain or maintain maximum functional levels.

"Community support services for persons with ~~mental retardation~~ intellectual disabilities or autism" includes only those services provided by designated agencies under a contract with the Department of Health and Human Services.

**Sec. A-137. 36 MRSA §2551, sub-§1-G** is enacted to read:

**1-G. Adult developmental services facility.** "Adult developmental services facility" means a facility that provides to an adult with an intellectual disability or autism any support or assistance that is provided, licensed or funded in whole or in part by the Department of Health and Human Services pursuant to Title 34-B, chapter 5 or 6.

**Sec. A-138. 36 MRSA §2551, sub-§7-B**, as amended by PL 2007, c. 539, Pt. DDD, §3, is further amended to read:

**7-B. Home support services.** "Home support services" means services provided to adults with ~~mental retardation~~ intellectual disabilities or autism, including direct assistance with eating, bathing, dressing, personal hygiene and other activities of daily living. These services include only those services provided by designated agencies under a contract with the Department of Health and Human Services and:

A. May include assistance with instrumental activities of daily living such as assistance with the preparation of meals, but does not include the cost of the meals themselves;

B. If specified in the adult's care plan, may include such housekeeping chores as bed making, dusting and vacuuming that are incidental to the care furnished, or are essential to the health and welfare of the adult; and

C. May be provided by a provider unrelated to the adult or by an adult relative other than an adult recipient's spouse, but may not be provided in the same setting where residential training is provided.

**Sec. A-139. 36 MRSA §2552, sub-§1, ¶I**, as amended by PL 2009, c. 434, §29, is further amended to read:

I. Community support services for persons with ~~mental retardation~~ intellectual disabilities or autism;

**Sec. A-140. 36 MRSA §2557, sub-§6**, as amended by PL 2007, c. 438, §60, is further amended to read:

**6. Community mental health facilities, community adult developmental services facilities and community substance abuse facilities.** Sales to mental health facilities, ~~mental retardation~~ adult developmental services facilities or substance abuse facilities that are:

A. Contractors under or receiving support under the federal Community Mental Health Centers Act, or its successors; or

B. Receiving support from the Department of Health and Human Services pursuant to Title 5, section 20005 or Title 34-B, section 3604, 5433 or 6204;

**Sec. A-141. 36 MRSA §2559**, as amended by PL 2009, c. 213, Pt. S, §13 and affected by §16, is further amended to read:

**§2559. Application of revenues**

Revenues derived by the tax imposed by this chapter must be credited to a General Fund suspense

account. On or before the last day of each month, the State Controller shall transfer a percentage of the revenues received by the State Tax Assessor during the preceding month pursuant to the tax imposed by section 2552, subsection 1, paragraphs A to F and L to the Local Government Fund as provided by Title 30-A, section 5681, subsection 5. The balance remaining in the General Fund suspense account must be transferred to service provider tax General Fund revenue. On or before the 15th day of each month, the State Controller shall transfer all revenues received by the assessor during the preceding month pursuant to the tax imposed by section 2552, subsection 1, paragraphs G to J to the Medical Care Services Other Special Revenue Funds account, the Other Special Revenue Funds Mental Health Services - Community Medicaid program, the Medicaid Services - ~~Mental Retardation~~ Adult Developmental Services program and the Office of Substance Abuse - Medicaid Seed program within the Department of Health and Human Services.

**Sec. A-142. 36 MRSA §2871, sub-§3-B** is enacted to read:

**3-B. Intermediate care facility for persons with intellectual disabilities.** "Intermediate care facility for persons with intellectual disabilities" has the same meaning as in Title 34-B, section 1001, subsection 4-B.

**Sec. A-143. 36 MRSA §2871, sub-§6**, as amended by PL 2003, c. 2, Pt. GG, §1 and affected by §3, is further amended to read:

**6. Residential treatment facility.** "Residential treatment facility" means an intermediate care facility for ~~the mentally retarded~~ persons with intellectual disabilities, or a level I assisted living facility for ~~the mentally retarded~~ persons with intellectual disabilities or autism, that falls within the definitions provided by the United States Social Security Act, 42 United States Code, Section 1396(d) and that provides services to individuals with developmental disabilities. "Residential treatment facility" also means a community-based facility that provides similar services to the developmentally disabled under a waiver granted pursuant to the United States Social Security Act, 42 United States Code, Section 1396n(c) to the extent permitted by federal law and regulations.

**Sec. A-144. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 34-B, chapter 5, in the chapter headnote, the words "mental retardation" are amended to read "intellectual disabilities and autism" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. A-145. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 34-B, chapter 5, subchapter 2, in

the subchapter headnote, the words "mental retardation services" are amended to read "services for persons with intellectual disabilities or autism" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. A-146. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 34-B, chapter 5, subchapter 3, in the subchapter headnote, the words "services for mentally retarded persons" are amended to read "services for persons with intellectual disabilities or autism" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. A-147. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 34-B, chapter 5, subchapter 4, in the subchapter headnote, the words "rights of persons with mental retardation or autism" are amended to read "rights of persons with intellectual disabilities or autism" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**PART B**

**Sec. B-1. Rename Consent Decree Reinvestment Fund - BDS-MR program.** Notwithstanding any other provision of law, the Consent Decree Reinvestment Fund - BDS-MR program within the Department of Health and Human Services is renamed the Consent Decree Reinvestment Fund - Intellectual Disabilities Services program.

**Sec. B-2. Rename Community Development Fund - Mental Retardation program.** Notwithstanding any other provision of law, the Community Development Fund - Mental Retardation program within the Department of Health and Human Services is renamed the Community Development Fund - Intellectual Disabilities Services program.

**Sec. B-3. Rename Community Development - Mental Retardation program.** Notwithstanding any other provision of law, the Community Development - Mental Retardation program within the Department of Health and Human Services is renamed the Community Development - Intellectual Disabilities Services program.

**Sec. B-4. Rename MR/Elderly PNMI Room and Board program.** Notwithstanding any other provision of law, the MR/Elderly PNMI Room and Board program within the Department of Health and Human Services is renamed the PNMI Room and Board program.

**Sec. B-5. Rules, forms, policies and publications.** When adopting or amending its rules and developing, publishing and issuing forms, policies and publications, the Department of Health and Human Services, as appropriate, shall replace references to

"mental retardation" and "mentally retarded" with references to "intellectual disability" and "person with an intellectual disability" and shall ensure that language referring to persons with disabilities is consistent with the recommendations of the respectful language working group contained in the report submitted by the Maine Developmental Disabilities Council to the Joint Standing Committee on Health and Human Services pursuant to Resolve 2007, chapter 62.

**Sec. B-6. Intent; effect.** This Act is not intended to and does not change the eligibility requirements for services or benefits or result in an expansion of services or benefits provided by the Department of Health and Human Services.

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

Effective March 20, 2012.

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**CHAPTER 543**

**H.P. 522 - L.D. 693**

**An Act Concerning Solid Waste Facility Citizen Advisory Committees**

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

**Sec. 1. 38 MRSA §1310-N, sub-§12** is enacted to read:

**12. Citizen advisory committee notification.** Except for applications for minor alterations, the department may not issue a license or an amendment to a license to a solid waste disposal facility owned by the State unless the provisions of this subsection are satisfied.

A. For purposes of this subsection, the following terms have the following meanings.

(1) "Appointing authority" means an entity authorized pursuant to law or resolve to appoint a member to a citizen advisory committee.

(2) "License" means a license, permit, order or approval issued by the department pursuant to this chapter.

(3) "Minor alteration" means an alteration that in the department's judgment does not have a potential to impact the environment or public health or welfare or to create a nuisance.

B. The owner or operator of a solid waste disposal facility shall:

(1) At least 10 days prior to filing an application for a license or an amendment to a license with the department, send to each member of the relevant citizen advisory committee established pursuant to law or resolve a notice that a copy of the license or amendment application will be sent to each appointing authority in accordance with subparagraph (2). The notice must be sent by United States Postal Service, certified mail, return receipt requested; and

(2) At the time of filing an application for a license or an amendment to a license with the department, send to each municipality and any other appointing authority a copy of the license or amendment application. The copy must be sent by United States Postal Service, certified mail, return receipt requested or by a commercial mail delivery service with a comparable proof of delivery.

C. When filing a license or amendment application, the owner or operator of a solid waste disposal facility shall submit to the department a copy of the certified mail receipts or comparable proof of delivery received under paragraph B.

The department may not issue a license or an amendment to a license prior to 30 days after the latest date of mailing of an application or notice sent in accordance with paragraph B.

See title page for effective date.

**CHAPTER 544**

**H.P. 937 - L.D. 1278**

**An Act To Stabilize Solid Waste Management Funding**

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

**Sec. 1. 38 MRSA §2201, 3rd ¶**, as amended by PL 2005, c. 618, §21, is further amended to read:

Funds related to administration may be expended only in accordance with allocations approved by the Legislature for administrative expenses directly related to the office's and the department's programs, including actions by the department necessary to abate threats to public health, safety and welfare posed by the disposal of solid waste. Funds related to fees imposed on the disposal of construction and demolition debris and residue from the processing of construction and demolition debris may be expended only for the state cost share to municipalities under the closure and remediation cost-sharing program for solid waste landfills established in section 1310-F. Funds related to operations may be expended only in accordance with

allocations approved by the Legislature and solely for the development and operation of publicly owned facilities owned or approved by the office and for the repayment of any obligations of the office incurred under article 3. These allocations must be based on estimates of the actual costs necessary for the office and the department to administer their programs, to provide financial assistance to regional associations and to provide other financial assistance necessary to accomplish the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and thereafter, the fund must annually transfer to the General Fund an amount necessary to reimburse the costs of the Bureau of Revenue Services incurred in the administration of Title 36, chapter 719. Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all office activities other than those included in the operations account.

**Sec. 2. 38 MRSA §2202, sub-§2**, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

**Sec. 3. 38 MRSA §2203-A**, as amended by PL 1999, c. 564, §1, is further amended to read:

**§2203-A. Waste handling fees**

**1. Fees.** Fees are imposed in the following amounts to be levied for solid waste that is disposed of at commercial, municipal, state-owned and regional association landfills.

Asbestos	\$5 per cubic yard
Oil-contaminated soil, gravel, brick, concrete and other aggregate	\$25 per ton
Waste water facility sludge	\$5 per ton
Ash, coal and oil	\$5 per ton
Paper mill sludge	\$5 per ton
Industrial waste	\$5 per ton
Sandblast grit	\$5 per ton
All other special waste	\$5 per ton
Municipal solid waste ash	\$1 per ton
Front end process residue (FEPR)	\$1 per ton
<u>Beginning January 1, 2013 and ending December 31, 2013, construction and demolition debris and residue from the processing of construction and demolition debris</u>	<u>\$1 per ton</u>
<u>Beginning January 1, 2014, construction and demolition debris and residue from the processing of construction and demolition debris</u>	<u>\$2 per ton</u>

**2. Exceptions.** Notwithstanding subsection 1:

A. A municipal or regional association landfill that has accepted 12,000 tons or more of special waste, other than municipal solid waste ash, asbestos and oil-contaminated soil, gravel, brick, concrete and other aggregate, in calendar year 1998 shall continue to pay \$2 per ton to the department for those categories of waste accepted in that calendar year;

B. A municipal or regional association landfill shall continue to pay \$2 per ton to the department on all categories of special waste other than municipal solid waste ash, asbestos and oil-contaminated soil, gravel, brick, concrete and other aggregate that was generated by the municipality or regional association and accepted for disposal in its landfill in calendar year 1998; and

C. A municipal or regional association landfill that has accepted 550 tons or more of oil-contaminated soil, gravel, brick, concrete and other aggregate in calendar year 1998 shall pay \$5 per ton for that category of waste; and

D. A fee may not be imposed under this section on construction and demolition debris or residue from the processing of construction and demolition debris disposed of at a municipal or regional association landfill that is less than 6 acres in size and accepts only inert fill, construction and demolition debris, debris from land clearing and wood wastes.

See title page for effective date.

**CHAPTER 545**

**H.P. 1260 - L.D. 1708**

**An Act To Prevent the Theft and Illegal Sale of Copper and Other Metals**

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

**Whereas,** the theft of copper and other metals and their subsequent sale as scrap metal is a growing problem in Maine and the nation; and

**Whereas,** the theft of metal, such as catalytic converters, manhole covers and traffic signs, places members of the public in jeopardy; and

**Whereas,** without further restrictions on the sale of scrap metal, the theft of scrap metal will continue to grow, further endangering lives and the well-being of the public; 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. 30-A MRSA §3771, sub-§5,** as enacted by PL 2007, c. 549, §1, is amended to read:

**5. Scrap metal processor.** "Scrap metal processor" means a person that, ~~from a fixed location,~~ purchases scrap metal for resale or recycling.

**Sec. 2. 30-A MRSA §3772, sub-§1,** as enacted by PL 2007, c. 549, §1, is amended to read:

**1. Maintenance of records requirement.** Except as provided in subsection 2, a scrap metal processor doing business in the State shall maintain an accurate and legible record of each scrap metal purchase transaction ~~that exceeds 100 pounds or \$50. A scrap metal processor shall provide payment to a seller only in the form of a check, and shall maintain a record of the payee, check number and name of the financial institution upon which the check is drawn.~~

**Sec. 3. 30-A MRSA §3772, sub-§1-A** is enacted to read:

**1-A. Form and method of payment.** A scrap metal processor shall provide payment to a seller only in the form of a check and shall maintain a record of the payee, check number and name of the financial institution upon which the check is drawn.

**Sec. 4. 30-A MRSA §3772, sub-§3, ¶A,** as enacted by PL 2007, c. 549, §1, is amended to read:

A. The name, address and gender of the seller. The scrap metal processor shall require the seller to provide proof of identification with a driver's license, military identification card, passport or other form of government-issued photo identification. The scrap metal processor shall photocopy the form of photo identification presented and record the distinct identifying number of that photo identification. If the proof of identification contains a photograph that is faded, out of date or otherwise indiscernible, the scrap metal processor shall photograph the seller. A scrap metal processor shall keep these proof of identification records in a secure, nonpublic location and, unless otherwise permitted by law, may not publish, reproduce, distribute or disclose these records for any other purpose than that described in section 3773, subsection 2. Information required under this paragraph may be maintained for repeat sellers in a relational database that allows the scrap metal processor to record the information one time and relate future purchase records to that information;

**Sec. 5. 30-A MRSA §3772, sub-§3, ¶F**, as enacted by PL 2007, c. 549, §1, is amended to read:

F. The consideration paid; ~~and~~

**Sec. 6. 30-A MRSA §3772, sub-§3, ¶G**, as enacted by PL 2007, c. 549, §1, is amended to read:

G. A signed statement that the seller is the owner or is otherwise authorized to sell the scrap metal on a form provided by the buyer that conspicuously bears the warning that making a false statement is a Class D crime under Title 17-A, section 453; and

**Sec. 7. 30-A MRSA §3772, sub-§3, ¶H** is enacted to read:

H. The make, model and number and state of issue of the license plate of the vehicle being used to deliver the scrap metal.

**Sec. 8. 30-A MRSA §3775-A** is enacted to read:

**§3775-A. Holding period; inspection**

**1. Seven-day hold.** If a law enforcement officer has a reasonable suspicion that scrap metal being held by a scrap metal processor is stolen or related to criminal activity, the officer may issue a written order to the scrap metal processor, specifying the scrap metal that must be retained and the length of time, which may not exceed 7 days, that the scrap metal processor must retain the identified scrap metal.

**2. Additional 7-day hold.** Prior to the expiration of the time period of the hold pursuant to subsection 1, a law enforcement officer may impose an additional hold period, which may not exceed 7 days. The law enforcement officer imposing the additional hold shall provide the scrap metal processor with a written description of the scrap metal to be retained and the length of time the scrap metal processor must retain the identified scrap metal.

**Sec. 9. 30-A MRSA §3777**, as enacted by PL 2007, c. 549, §1, is repealed.

**Sec. 10. 30-A MRSA §3778** is enacted to read:

**§3778. Violation; penalties**

**1. Violation.** A person may not violate this subchapter.

**2. Penalties.** In addition to any other penalties provided by law, the following penalties apply to violations of this subchapter:

A. A person who violates this subchapter commits a civil violation for which a fine of \$1,000 must be adjudged;

B. A person who violates this subchapter after having previously been adjudicated of violating

this subchapter commits a civil violation for which a fine of \$3,000 must be adjudged; and

C. A person who violates this subchapter after having previously been adjudicated of violating this subchapter more than once commits a civil violation for which a fine of \$4,500 must be adjudged and is prohibited from acting as a scrap metal processor for 6 months.

**Sec. 11. Department of Public Safety to review the proposed development of an integrated criminal alert network for scrap metal thefts.** Beginning September 1, 2012, the Commissioner of Public Safety shall review the merits of using a statewide integrated criminal alert network to track scrap metal thefts across the State, as well as the costs associated with requiring scrap metal processors and local law enforcement agencies to access and use a database designed for the purpose of alerting participating members to scrap metal thefts. The commissioner shall report by January 15, 2013 to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters regarding the merits and costs of using such a network. The joint standing committee may report out a bill implementing the recommendations in the report to the First Regular Session of the 126th Legislature.

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

Effective March 29, 2012.

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**CHAPTER 546**

**H.P. 1302 - L.D. 1768**

**An Act To Improve the Department of Environmental Protection's Annual Waste Discharge License Fee System**

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

**Whereas**, this legislation revises the Department of Environmental Protection's annual waste discharge license fee system; and

**Whereas**, in order to maintain a consistent cash flow into the waste discharge license fee account at the Department of Environmental Protection, one-quarter of the regulated community is billed in each quarter of the year; and

**Whereas**, if the revised fee schedule does not become effective until 90 days after adjournment of

the Legislature, one-half of the regulated community will be billed under the current fee system and the other half will be billed under the revised system, creating inequity within the regulated community as to how fees are assessed; 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. 38 MRSA §353-B, sub-§1**, as amended by PL 2007, c. 558, §2, is further amended to read:

**1. Fees assessed.** After the effective date of this section, licensees must pay annual waste discharge license fees consisting of a base or minimum fee, an annualized license renewal service fee and amounts from paragraph B reflecting the quantity of pollutants actually discharged or licensed to be discharged and from paragraph C in consideration of the potential for water quality impact. Annual waste discharge license fees for existing licensees are determined as set out in subsection 2. Annual waste discharge license fees for new licensees, or licensees that have been reclassified to a new discharge group, are determined by the discharge group to which the facility is assigned. The fee for a new waste discharge license is the median fee for the selected discharge group, and this fee must be paid at the time of application. If the application for a new license is denied, 50% of the initial annual fee must be refunded.

~~A. A base fee and an annualized license renewal service fee are assessed for the categories of waste discharge licenses identified in subsection 2, paragraph A. When a license authorizes discharges in more than one category, only the largest base fee and the associated annualized license renewal service fee may be applied to the license. When discharge fees described in paragraph B are not applicable or appropriate for a particular license group or discharge activity, only the base and annualized license renewal service fees are assessed.~~

~~B. In addition to the base fee and annualized license renewal service fee amounts, fees are assessed in consideration of the quantity and nature of pollutants discharged. When data are available, average daily discharge quantities are used in computing fees for conventional and nonconventional pollutants discharged from publicly owned sanitary and industrial process wastewater~~

~~sources. When data are not available and for other pollutants and categories, fees are determined using the discharge limits established in a waste discharge license.~~

~~C. In addition to the base, annualized license renewal service and discharge fees described in paragraphs A and B, fees may be assessed for the following:~~

- ~~(1) The base fee may be increased by a factor reflecting the initial dilution of an effluent as discharged to the receiving water. This assessment is applied to nonresidential domestic wastewater and industrial process wastewater sources licensed for more than 50,000 gallons per day and having initial dilutions of less than 1,000 to one, except those sources where the licensed flow is less than 50,000 gallons per day and the initial dilution is greater than 50 to one. The assessment is determined by multiplying the applicable base fee times 1.5 divided by the square root of the chronic dilution factor.~~
- ~~(2) When a license authorizes multiple discharge points from the same location, there is an additional fee of \$35 per discharge point.~~

~~D. If there are no discharges pursuant to a waste discharge license during an entire year, only the base and annualized license renewal service fees are assessed for that year plus applicable water quality impact and multiple discharge points adjustments from paragraph C may be assessed the fee for that year must be reduced to 25% of the fee amount that would otherwise apply to that license.~~

~~E. If a licensee continues to discharge following expiration of the license, the licensee shall must continue to pay any applicable waste discharge license fees provided for in this section. This paragraph does not authorize the discharge and does not affect the applicability of any penalty or enforcement provision.~~

**Sec. 2. 38 MRSA §353-B, sub-§2**, as amended by PL 2009, c. 213, Pt. FFFF, §2, is repealed and the following enacted in its place:

**2. Fee amounts.** Waste discharge license fees are determined as specified in this subsection.

A. The fees for waste discharge license groups are as follows.

<u>Discharge group</u>	<u>Basis for annual fee</u>	<u>Median fee for discharge group</u>	<u>Water quality improvement surcharge</u>

Publicly owned treatment facilities, 10,000 gallons per day or less	annual fee	2011 bill amount	\$306	Major industrial facility, process wastewater (based on EPA list of major source discharges)	annual fee	Average of 2009, 2010 and 2011 bill amounts	\$19,672
Publicly owned treatment facilities, more than 10,000 gallons per day to 0.1 million gallons per day	annual fee	2011 bill amount	\$400	Other industrial facility, process wastewater	annual fee	2011 bill amount	\$1,214
Publicly owned treatment facilities, more than 0.1 million gallons per day to 1.0 million gallons per day	annual fee	Average of 2009, 2010 and 2011 bill amounts	\$617	Food handling or packaging wastewater	annual fee	2011 bill amount	\$659
Publicly owned treatment facilities, more than 1.0 million gallons per day to 5.0 million gallons per day	annual fee	Average of 2009, 2010 and 2011 bill amounts	\$1,300	Fish-rearing facility 0.1 million gallons per day or less	annual fee	2011 bill amount	\$312
Publicly owned treatment facilities, greater than 5 million gallons per day or with significant industrial waste	annual fee	Average of 2009, 2010 and 2011 bill amounts	\$4,553	Fish-rearing facility over 0.1 million gallons per day	annual fee	2011 bill amount	\$794
				Marine aquaculture facility	annual fee	2011 bill amount	\$308
				Noncontact cooling water	annual fee	2011 bill amount	\$192
				Industrial or commercial sources, miscellaneous or incidental nonprocess wastewater	annual fee	2011 bill amounts	\$363
				Municipal combined sewer overflow	annual fee	2011 bill amount	\$413

<u>Sanitary wastewater, excluding overboard discharge</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$736</u>	
<u>Sanitary overboard discharge, commercial sources</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$446</u>	<u>\$75</u>
<u>Sanitary overboard discharge, residential sources 600 gallons per day or less</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$231</u>	<u>\$75</u>
<u>Sanitary overboard discharge, residential sources more than 600 gallons per day</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$313</u>	<u>\$75</u>
<u>Sanitary overboard discharge, public sources</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$315</u>	<u>\$75</u>
<u>Aquatic pesticide application</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$644</u>	
<u>Snow dumps</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$319</u>	
<u>Salt and sand storage pile</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$429</u>	
<u>Log storage permit</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$422</u>	

<u>General permit coverage for industrial storm water discharges (except construction)</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$300</u>
<u>General permit coverage for marine aquaculture facility</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$134</u>
<u>General permit coverage (other)</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$164</u>
<u>Experimental discharge license</u>	<u>license fee</u>	<u>2011 bill amount</u>	<u>\$899</u>
<u>New or amended mixing zone, in addition to other applicable fees</u>	<u>flat fee</u>	<u>\$5,368</u>	<u>---</u>
<u>Formation of sanitary district</u>	<u>flat fee</u>	<u>\$402</u>	<u>---</u>
<u>Transfer of license for residential or commercial sanitary wastewater</u>	<u>flat fee</u>	<u>\$100</u>	<u>---</u>

On an annual basis, municipalities and publicly owned treatment works whose combined sewer overflows have the potential to affect shellfish harvesting areas as determined by the department by virtue of their locations within estuarine or marine waters of the State must be assessed a surcharge on their wastewater discharge licenses in a total amount of \$12,000. This amount must be allocated among the municipalities and publicly owned treatment works according to their prior 3-year average annual flows as reported to the department.

On an annual basis, publicly owned treatment works whose outfalls licensed for the discharge of treated effluent cause adjacent shellfish growing areas to be closed for the purposes of harvesting shellfish must be assessed a license surcharge in a total amount of \$25,000. This amount must be allocated among the publicly owned treatment works according to the acreage that each licensed outfall closes. This acreage must be determined by the Department of Marine Resources in consultation with the department.

**Sec. 3. 38 MRSA §353-B, sub-§§3 and 4**, as enacted by PL 1997, c. 794, Pt. B, §7, are amended to read:

**3. Schedule.** The fee for existing licenses must be paid on the anniversary date of the license or another date initially established by the department. This date, once established, remains the scheduled date for paying the annual fee, regardless of future changes of the anniversary date. ~~The annual fee for new applications must be estimated and paid at the time of filing the application. When the processing of the application is complete or following the first year of discharge, if applicable, the final annual fee is determined. Any additional amount due or refund of overpayment must be paid within 30 days of determination of the final fee. If the application is denied, 50% of the initial annual fee must be refunded.~~

**4. Renewals, amendments and modifications.** Except for transfers of licenses for discharges of sanitary wastewater from commercial or residential sources as provided for in subsection 2, there are no additional fees assessed for license renewals, amendments or modifications. Upon significant changes in discharge flow, a licensee may apply for modification of the license to change the licensed discharge flow. The percent change in discharge flow must be used to adjust the annual waste discharge license fee by an equivalent percentage.

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

Effective March 29, 2012.

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## CHAPTER 547

### S.P. 558 - L.D. 1659

#### An Act To Facilitate Recovery of Debts Owed to the State for Indigent Legal Services

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

**Sec. 1. 4 MRSA §1806, sub-§1, ¶D** is enacted to read:

**D. "Case information" means:**

- (1) The court in which a case is brought;
- (2) Any criminal charges or juvenile crime charges and the type, but not the contents, of any petition giving rise to a case;
- (3) The docket number;
- (4) The identity of assigned counsel and the date of assignment;
- (5) The withdrawal of assigned counsel and the date of withdrawal; and
- (6) Any order for reimbursement of assigned counsel fees.

**Sec. 2. 4 MRSA §1806, sub-§3** is enacted to read:

**3. Confidential information disclosed by the Judicial Department.** The Judicial Department may disclose to the commission confidential information necessary for the commission to carry out its functions, including the collection of amounts owed to reimburse the State for the cost of assigned counsel, as follows:

A. Case information and individual client information with respect to court proceedings that are confidential by statute or court rule in which one or more parties are represented by assigned counsel; and

B. The name, address, date of birth and social security number of any person ordered by the court to reimburse the State for some or all of the cost of assigned counsel.

This information remains confidential in the possession of the commission and is not open to public inspection, except that the names of criminal defendants and the names of juvenile defendants charged with offenses that if committed by an adult would constitute murder or a Class A, Class B or Class C crime are not confidential.

**Sec. 3. 36 MRSA §5276-A, sub-§8**, as enacted by PL 1985, c. 501, Pt. B, §21, is amended to read:

**8. Disclosure of information.** In any civil or criminal action in which a fine, forfeiture, order to pay or money judgment is entered in favor of the State or any agency or department thereof, or in any action in which counsel is ~~appointed~~ assigned for an indigent party, the court may require the party so indebted to the State, its agencies or department, or the party for whom counsel has been ~~appointed~~ assigned, to provide that party's social security number and other financial information under oath and on such forms as may be prepared by the Judicial Department in order to effectuate the purposes of this section. The Judicial Department may disclose social security numbers and

financial information obtained in accordance with this subsection to agencies or departments of the State and to private collection agencies working under contract for the State for the purpose of collection of the amounts owed. A person who has access to or receives social security numbers or other financial information under this subsection shall maintain the confidentiality of the information and use it only for the purposes for which it was disclosed and may not further disclose it.

See title page for effective date.

## CHAPTER 548

### H.P. 1293 - L.D. 1752

#### An Act Concerning Technical Changes to the Tax Laws

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

**Sec. 1. 10 MRSA §1020-C, sub-§1, ¶¶A and B**, as enacted by PL 2011, c. 211, §14, are amended to read:

A. "Eligible dealer" means a motor vehicle oil dealer that has ~~reported and paid~~ sold or distributed motor vehicle oil outside the State on which the motor vehicle oil premium was imposed under by section 1020, subsection 6-A ~~on motor vehicle oil sales or distributions.~~

B. "Eligible premium" means a premium that has been reported and paid by ~~an eligible a motor vehicle oil~~ dealer to the State Tax Assessor on motor vehicle oil that was subsequently sold or distributed by ~~that an~~ eligible dealer outside the State during the relevant reimbursement period.

**Sec. 2. 10 MRSA §1020-C, sub-§2**, as enacted by PL 2011, c. 211, §14, is amended to read:

**2. Annual application for reimbursement.** An eligible dealer shall submit a claim for reimbursement of eligible premiums on motor vehicle oil sold by that dealer outside the State on a form prescribed by the State Tax Assessor no later than March 31st annually. An application filed in 2011 or 2012 may include a reimbursement request for eligible premiums paid from October 1, 2009 to December 31, 2011. Reimbursement claims submitted beginning in 2013 may be made only for eligible premiums paid in the immediately preceding calendar year. All applications for reimbursement must be made under penalties of perjury. For purposes of this subsection, an application for reimbursement is considered a return, as defined in Title 36, section 111, subsection 4.

**Sec. 3. 10 MRSA §1100-Z, sub-§2**, as enacted by PL 2011, c. 380, Pt. Q, §1 and affected by §7, is amended to read:

**2. Program.** The Maine New Markets Capital Investment Program, referred to in this section as "the program," is established to encourage new investment in economically distressed areas of the State. For the purposes of this section, unless otherwise defined in this section, all terms have the same meaning as under Title 36, section ~~5219-GG~~ 5219-HH and Section 45D of the United States Internal Revenue Code of 1986, as amended.

**Sec. 4. 10 MRSA §1100-Z, sub-§3, ¶G**, as enacted by PL 2011, c. 380, Pt. Q, §1 and affected by §7, is amended to read:

G. Upon receipt of notice that a qualified community development entity has issued its qualified equity investments or long-term debt securities, the authority shall certify the entity's qualified equity investments or long-term debt securities as qualified equity investments and eligible for tax credits under Title 36, section ~~5219-GG~~ 5219-HH. The authority shall provide written notice, sent by certified mail or any other means considered feasible by the authority, of the certification to the qualified community development entity, ~~Maine the Department of Administrative and Financial Services, Bureau of Revenue Services and the Commissioner of Administrative and Financial Services.~~ The notice must include the names of persons eligible to claim the tax credits and their respective tax credit amounts. If the names of the persons that are eligible to claim the tax credits change due to a transfer of a qualified equity investment or a change in an allocation pursuant to this subchapter, the qualified community development entity shall notify the authority of ~~such that transfer or change.~~

**Sec. 5. 10 MRSA §1100-Z, sub-§4**, as enacted by PL 2011, c. 380, Pt. Q, §1 and affected by §7, is amended to read:

**4. Limit on amount of tax credits authorized.** The maximum aggregate amount of qualified equity investments for which the authority may issue tax credit authority under this section is \$250,000,000; a tax credit claim may not exceed \$20,000,000 in any one state fiscal year over the 7 years of the tax credit allowance dates as described in Title 36, section ~~5219-GG~~ 5219-HH, subsection 1, paragraph A.

**Sec. 6. 10 MRSA §1100-Z, sub-§5**, as enacted by PL 2011, c. 380, Pt. Q, §1 and affected by §7, is amended to read:

**5. Reporting and disclosure of information.** The authority shall require annual reports of a qualified community development entity granted tax credit allocation authority pursuant to subsection 3. Reports

may be shared with ~~Maine~~ the Department of Administrative and Financial Services, Bureau of Revenue Services and the Commissioner of Administrative and Financial Services. Notwithstanding section 975-A, the authority may disclose any information to ~~Maine~~ the Department of Administrative and Financial Services, Bureau of Revenue Services and the Commissioner of Administrative and Financial Services that it considers necessary for the administration of the program pursuant to this section, Title 36, section ~~2534~~ 2533 or Title 36, section ~~5219-GG~~ 5219-HH.

**Sec. 7. 20-A MRSA §12542, sub-§2-A, ¶D,** as enacted by PL 2009, c. 553, Pt. A, §9, is amended to read:

D. ~~For an individual whose student loans exceed the principal cap, a~~ A benchmark loan payment must be calculated as described in this paragraph. The State Tax Assessor shall annually by November 1st calculate what the monthly payment would be on a loan for the amount of the principal cap, to be paid over 10 years, at the interest rate offered for federally subsidized Stafford loans under 20 United States Code, Section 1077a, during the individual's last year of enrollment at an accredited Maine community college, college or university.

**Sec. 8. 22 MRSA §1714-C,** as enacted by PL 2009, c. 213, Pt. CC, §2, is amended to read:

**§1714-C. Critical access hospital staff enhancement reimbursement**

Beginning April 1, 2011, the department shall reimburse critical access hospitals from the total allocated from hospital tax revenues under Title 36, chapter ~~375~~ 377 at least \$1,000,000 in state and federal funds to be distributed annually among critical access hospitals for staff enhancement payments.

**Sec. 9. 32 MRSA §14706, sub-§6,** as enacted by PL 2001, c. 324, §12, is amended to read:

**6. Seller's certificate.** The number of a valid ~~transient seller of consumer merchandise's~~ registration certificate issued to the applicant by the State Tax Assessor pursuant to Title 36, chapter 211 or satisfactory evidence that the applicant is not required to be registered under that ~~Title~~ chapter.

**Sec. 10. 36 MRSA §112, sub-§8,** as amended by PL 2011, c. 211, §17, is further amended to read:

**8. Additional duties.** In addition to the duties specified in this Title, the assessor ~~is responsible for~~ has the following duties:

A. Collection of the tax ~~levied~~ imposed on fire insurance companies by Title 25, section 2399;

C. Administration of the spruce budworm excise tax in accordance with Title 12, section 8427; ~~and~~

D. Administration of the premium imposed on motor vehicle oil under Title 10, section 1020-~~;~~ and

E. Administration of reports and payments required under Title 32, section 1866-E.

**Sec. 11. 36 MRSA §191, sub-§2, ¶SS,** as enacted by PL 2011, c. 380, Pt. Q, §4 and affected by §7, is amended to read:

SS. The disclosure of information to the Finance Authority of Maine necessary for the administration of the new markets capital investment credit in sections ~~2534~~ 2533 and ~~5219-GG~~ 5219-HH and to the Commissioner of Administrative and Financial Services as necessary for the execution of the memorandum of agreement pursuant to section ~~5219-GG~~ 5219-HH, subsection 3-~~;~~

**Sec. 12. 36 MRSA §191, sub-§2, ¶TT,** as reallocated by RR 2011, c. 1, §50, is amended to read:

TT. The disclosure to tax officials of other states, and to clearinghouses and other administrative entities acting on behalf of participating states, of information necessary for the administration of a multistate agreement entered into pursuant to section 2532-~~;~~

**Sec. 13. 36 MRSA §844, sub-§2,** as amended by PL 1995, c. 262, §7, is further amended to read:

**2. Nonresidential property of \$1,000,000 or greater.** Notwithstanding subsection 1, ~~with regard to nonresidential property or properties with an equalized municipal valuation of \$1,000,000 or greater either separately or in the aggregate, either party the applicant may choose to appeal the decision of the assessors or the municipal officers with regard to~~ on a request for abatement with respect to nonresidential property or properties having an equalized municipal valuation of \$1,000,000 or greater, either separately or in the aggregate, to the State Board of Property Tax Review within 60 days after notice of the decision from which the appeal is taken or after the application is deemed to be denied. ~~If the state board thinks~~ State Board of Property Tax Review determines that the applicant is over-assessed, it shall grant such reasonable abatement as ~~the board thinks it determines~~ proper. For the purposes of this subsection, "nonresidential property" means property that is used primarily for commercial, industrial or business purposes, excluding unimproved land that is not associated with a commercial, industrial or business use.

**Sec. 14. 36 MRSA §1752, sub-§1-H,** as enacted by PL 2007, c. 240, Pt. WWW, §1, is repealed.

**Sec. 15. 36 MRSA §1760, sub-§5,** as amended by PL 2009, c. 625, §6, is further amended to read:

**5. Medicines.** Sales of medicines for human beings sold on a doctor's prescription. This subsection does not apply to the sale of marijuana pursuant to Title 22, chapter 558-C.

**Sec. 16. 36 MRSA §1760, sub-§8,** as amended by PL 2009, c. 434, §25, is further amended to read:

**8. Certain motor fuels.** Sales of:

A. Motor fuels upon which a tax at the maximum rate for highway use ~~has been paid~~ pursuant to Part 5 or a comparable tax of ~~any other~~ another state or a province of Canada has been paid; or

B. Internal combustion engine fuel, as defined in section 2902, bought and used for the purpose of propelling jet engine aircraft; ~~and.~~

~~D. Diesel internal combustion engine fuel bought and used from July 1, 2007 to June 30, 2008 for the purpose of operating or propelling a commercial groundfishing boat.~~

**Sec. 17. 36 MRSA §1764,** as amended by PL 2007, c. 375, §2, is further amended to read:

**§1764. Tax against certain casual sales**

The tax imposed by ~~chapters 211 to 225~~ this Part must be levied upon all casual rentals of living quarters in a hotel, rooming house ~~or~~ tourist camp or trailer camp and upon all casual sales involving the sale of trailers, truck campers, motor vehicles, special mobile equipment ~~except farm tractors and lumber harvesting vehicles or loaders,~~ watercraft or aircraft ~~except those~~ unless the property is sold for resale at retail sale or to a corporation, partnership, limited liability company or limited liability partnership when the seller is the owner of a majority of the common stock of the corporation or of the ownership interests in the partnership, limited liability company or limited liability partnership. This section does not apply to the rental of living quarters rented for a total of fewer than 15 days in the calendar year, except that a person who owns and offers for rental more than one property in the State during the calendar year is liable for collecting sales tax with respect to the rental of each unit regardless of the number of days for which it is rented. For purposes of this section, "special mobile equipment" does not include farm tractors and lumber harvesting vehicles or loaders.

**Sec. 18. 36 MRSA §2519,** as amended by PL 2011, c. 331, §13 and affected by §§16 and 17, is further amended to read:

**§2519. Ratio of tax on foreign insurance companies**

~~Any~~ An insurance company incorporated by a state of the United States or province of Canada whose laws impose upon insurance companies chartered by this State ~~any~~ a greater tax than is ~~herein~~ provided in this chapter shall pay the same tax upon business done

by it in this State, in place of the tax provided in any other section of this ~~Title chapter.~~ If it is not paid the insurance company fails to pay the tax as provided in section 2521-A, the assessor shall certify that failure to the Superintendent of Insurance, who shall suspend the insurance company's right of said company to do business in this State. ~~Any~~ For purposes of this section, an insurance company incorporated by another country is regarded for the purpose of this section as though deemed to be incorporated by the state where it has elected to make its deposit and establish its principal agency in the United States. For nonadmitted insurance premiums subject to section 2531, the rate applied pursuant to this section must be the highest rate that the state or province applies to nonadmitted insurance premiums taxed in that state or province.

**Sec. 19. 36 MRSA §2531,** as enacted by PL 2011, c. 331, §14 and affected by §§16 and 17; enacted by c. 380, Pt. Q, §5 and affected by §7; and enacted by c. 453, §4, is repealed and the following enacted in its place:

**§2531. Taxation of nonadmitted insurance coverage**

**1. Generally.** All gross direct insurance premiums and annuity considerations paid to insurers that do not have certificates of authority to do business in this State issued by the Superintendent of Insurance pursuant to Title 24-A are subject to taxation in accordance with this section if this State is the insured's home state, as defined in the federal Nonadmitted and Reinsurance Reform Act of 2010, Public Law 111-203, Section 527. This section does not apply to reinsurance premiums paid by an authorized domestic insurer.

**2. Rate and incidence of tax.** Except as otherwise provided in section 2519 or 2532, the rate of taxation is 3% of the premiums subject to tax under this section. For all coverage placed in accordance with Title 24-A, chapter 19, the tax must be paid by the surplus lines producer. For all other nonadmitted insurance, the tax must be paid by the insured.

**3. Returns.** Except as otherwise provided in accordance with a multistate agreement entered into pursuant to section 2532, every producer holding surplus lines authority in this State shall file a return and pay the tax due in accordance with section 2521-A and every insured subject to tax in accordance with this section shall file a return and pay the tax due subject to the same requirements as provided in section 2521-A. An insurance agency may elect to collect and pay the tax on surplus lines premiums on behalf of all of its employees who are surplus lines producers and file a single return.

**Sec. 20. 36 MRSA §2533** is enacted to read:

**§2533. New markets capital investment credit**

A person that is subject to tax under this chapter, or would be subject to tax under this chapter if it did business or collected premiums or assessments in this State, that holds a qualified equity investment certified by the Finance Authority of Maine pursuant to Title 10, section 1100-Z, subsection 3, paragraph G is allowed a credit equal to the amount determined in accordance with section 5219-HH against the tax otherwise due under this chapter. Section 5219-HH governs the allowance of the credit and limitations on the amount, refundability, carry-over and recapture of the credit.

**Sec. 21. 36 MRSA §2534** is enacted to read:

**§2534. Credit for rehabilitation of historic properties**

A taxpayer is allowed a credit against the tax otherwise due under this chapter as determined under section 5219-BB.

**Sec. 22. 36 MRSA §4603, sub-§1**, as amended by PL 1995, c. 502, Pt. C, §14, is further amended to read:

**1. Establishment.** The Maine Potato Board is a body corporate and politic and an incorporated public instrumentality of the State and the exercise of powers conferred by this Part is determined to be the performance of essential government functions. For the purposes of the budget, accounts and control, purchasing or other provisions of Title 5, Part 4, the board may not be construed to be a state agency. The board consists of 11 members who, ~~following the transition period provided for in subsection 11,~~ must be elected in accordance with the procedures set forth in this chapter and such additional procedures as the board may prescribe by rulemaking. Subject to such staggered terms as the board may provide by rule, board members shall serve 2-year terms, ~~provided except~~ that a board member may continue to serve until a successor is duly elected and qualified and that board members may not serve more than 3 consecutive terms.

**Sec. 23. 36 MRSA §4603, sub-§11**, as enacted by PL 1985, c. 753, §§14 and 15, is repealed.

**Sec. 24. 36 MRSA §5122, sub-§2, ¶II**, as corrected by RR 2011, c. 1, §56, is amended to read:

II. For taxable years beginning on or after January 1, 2012, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2011 or 2012 for which an addition was required

under subsection 1, paragraph FF, subparagraph (2) for the taxable year beginning in 2011 or 2012.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph FF, subparagraph (2) related to property placed in service outside the State and the subtraction modifications allowed pursuant to this paragraph.

The total amount of the subtraction modification claimed ~~for property placed in service outside the State~~ under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph FF, subparagraph (2) for the same property; and

**Sec. 25. 36 MRSA §5142, sub-§8-B, ¶C**, as enacted by PL 2011, c. 380, Pt. CCCC, §2 and affected by §4, is amended to read:

C. Performance of the following personal services for 24 days during a ~~calendar~~ taxable year may not be counted toward the 12-day threshold under paragraph A:

- (1) Personal services performed in connection with presenting or receiving employment-related training or education;
- (2) Personal services performed in connection with a site inspection, review, analysis of management or any other supervision of a facility, affiliate or subsidiary based in the State by a representative from a company, not headquartered in the State, that owns that facility or is the parent company of the affiliate or subsidiary;
- (3) Personal services performed in connection with research and development at a facility based in the State or in connection with the installation of new or upgraded equipment or systems at that facility; or
- (4) Personal services performed as part of a project team working on the attraction or implementation of new investment in a facility based in the State.

**Sec. 26. 36 MRSA §5164, sub-§1**, as amended by PL 2007, c. 539, Pt. CCC, §12, is further amended to read:

**1. Fiduciary adjustment defined.** The fiduciary adjustment is the net amount of the modifications described in section 5122, including subsection 3 if the estate or trust is a beneficiary of another estate or trust, ~~which that~~ relates to items of income or deduction of

an estate or trust. Income taxes imposed by this State or any other taxing jurisdiction, ~~mortgage insurance premiums paid or accrued on or after January 1, 2008 and claimed as a deduction pursuant to the Code, Section 163(h)(3)(E)~~ and interest or expenses incurred in the production of income exempt from tax under this Part ~~that were deducted in arriving at federal taxable income~~ must be added back to the fiduciary adjustment. Interest or expenses incurred in the production of income taxable under this Part but exempt from federal income tax must be subtracted from the fiduciary adjustment.

**Sec. 27. 36 MRSA §5191, sub-§3**, as amended by PL 1979, c. 541, Pt. A, §233, is further amended to read:

**3. Tax avoidance or evasion.** ~~Where~~ If a partner's distributive share of an item of partnership income, gain, loss or deduction is determined for federal income tax purposes by a special provision in the partnership agreement ~~with respect to such item, and the principal purpose of such provision which is the avoidance or evasion of tax under this Part, the partner's distributive share of such that item and any modification required with respect thereto shall to that item must be determined in accordance with his the partner's distributive share of the taxable income or loss of the partnership generally (that is, exclusive of those items requiring separate computation that must be separately computed under the Internal Revenue Code, Section 702, or its equivalent).~~

**Sec. 28. 36 MRSA §5200-A, sub-§2, ¶V**, as corrected by RR 2011, c. 1, §57, is amended to read:

V. For taxable years beginning on or after January 1, 2012, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2011 or 2012 for which an addition was required under subsection 1, paragraph Y, subparagraph (2) for the taxable year beginning in 2011 or 2012.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal ~~adjusted gross taxable~~ income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph Y, subparagraph (2) related to property placed in service outside the State and the subtraction modifications allowed pursuant to this paragraph.

The total amount of the subtraction modification claimed for property placed in service outside the

State under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph Y, subparagraph (2) for the same property; and

**Sec. 29. 36 MRSA §5204**, as amended by PL 2011, c. 380, Pt. N, §15 and affected by §19, is further amended to read:

**§5204. Lump-sum retirement plan distributions**

In addition to any other tax imposed by this Part, a tax is hereby imposed for each taxable year on every taxpayer who, ~~in accordance with the Code, Section 402(e)(1)~~, elects to compute a separate federal tax on a lump-sum distribution from a retirement plan at the rate of 15% of the separate federal tax imposed on the distribution, except that, for tax years beginning in 2012, the rate is 7.5%. The tax under this section does not apply to tax years beginning on or after January 1, 2013.

**Sec. 30. 36 MRSA §5216-D, sub-§§3 and 4**, as enacted by PL 2011, c. 380, Pt. HHHH, §3, are amended to read:

**3. Limitation.** The amount of the credit allowed under this section for any one taxable year may not exceed 50% of the tax imposed by this Part on the investor for the taxable year before application of the credit. The credit allowed under this section may not reduce the tax otherwise due under this Part to less than zero.

**4. Carry-forward.** A credit under this section not taken because of the ~~limitation~~ limitations in subsection 3 must be taken in the next taxable year in which the credit may be taken, and the ~~limitation~~ limitations of subsection 3 also ~~applies~~ apply to the carry-forward years. In no case may this carry-forward period exceed 15 years.

**Sec. 31. 36 MRSA §5219-BB, sub-§4**, as amended by PL 2011, c. 453, §9, is further amended to read:

**4. Maximum credit.** The credit allowed pursuant to this section and section ~~2534~~ 2534 may not exceed \$5,000,000 for each certified rehabilitation project under ~~Section 47 of the Code, Section 47~~, placed into service in the State during the taxable year for which a credit is claimed under this section.

**Sec. 32. 36 MRSA §5219-GG**, as enacted by PL 2011, c. 380, Pt. O, §17 and affected by §18 and enacted by Pt. Q, §6 and affected by §7, is repealed and the following enacted in its place:

**§5219-GG. Maine capital investment credit**

**1. Credit allowed.** A taxpayer that claims a depreciation deduction under the Code, Section 168(k) for property placed in service in the State during the taxable year beginning in 2011 or 2012 is allowed a credit against the taxes imposed by this Part in an

amount equal to 10% of the amount claimed for the taxable year under the Code, Section 168(k) with respect to that property, except for excluded property under subsection 2.

**2. Certain property excluded.** The following property is not eligible for the credit under this section:

A. Property owned by a public utility as defined by Title 35-A, section 102;

B. Property owned by a person that provides radio paging services as defined by Title 35-A, section 102;

C. Property owned by a person that provides mobile telecommunications services as defined by Title 35-A, section 102;

D. Property owned by a cable television company as defined by Title 30-A, section 2001;

E. Property owned by a person that provides satellite-based direct television broadcast services;

F. Property owned by a person that provides multichannel, multipoint television distribution services; and

G. Property that is not in service in the State for the entire 12-month period following the date it is placed in service in the State.

**3. Limitations; carry-forward.** The credit allowed under subsection 1 may not reduce the tax otherwise due under this Part to less than zero. Any unused portion of the credit may be carried forward to the following year or years for a period not to exceed 20 years.

**4. Recapture.** The credit allowed under this section must be fully recaptured to the extent claimed by the taxpayer if the property forming the basis of the credit is not used in the State for the entire 12-month period following the date it is placed in service in the State. The credit must be recaptured by filing an amended return in accordance with section 5227-A for the tax year in which that property was used to calculate the credit under this section. The amended return must reflect the credit disallowed and the income modifications required by section 5122, subsection 1, paragraph FF and section 5200-A, subsection 1, paragraph Y with respect to that property.

**Sec. 33. 36 MRSA §5219-HH** is enacted to read:

**§5219-HH. New markets capital investment credit**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applicable percentage" means 0% for each of the first 2 credit allowance dates, 7% for the 3rd

credit allowance date and 8% for the next 4 credit allowance dates.

B. "Authority" means the Finance Authority of Maine.

C. "Commissioner" means the Commissioner of Administrative and Financial Services.

D. "Credit allowance date" means, with respect to any qualified equity investment, the date on which the investment is initially made and each of the 6 anniversary dates of the date thereafter.

E. "Long-term debt security" means any debt instrument issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least 7 years from the date of its issuance, with no acceleration of repayment, amortization or prepayment features prior to its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the period commencing with its issuance and ending on its final credit allowance date in excess of the cumulative operating income, as defined in the regulations adopted pursuant to the Code, Section 45D, of the qualified community development entity for the same period prior to giving effect to interest expense on such debt instrument. This paragraph does not limit the holder's ability to accelerate payments on the debt instrument in situations when the qualified community development entity has defaulted on covenants designed to ensure compliance with this section; section 191, subsection 2, paragraph SS; section 2533; and Title 10, section 1100-Z or the Code, Section 45D.

F. "Purchase price" means the amount of the investment in the qualified community development entity for the qualified equity investment.

G. "Qualified active low-income community business" has the same meaning as in the Code, Section 45D.

H. "Qualified community development entity" has the same meaning as in the Code, Section 45D, except that the entity must have entered into or be controlled by or under common control of an entity that has entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by the Code, Section 45D.

I. "Qualified equity investment" means any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(1) Has at least 85% of its cash purchase price used by the issuer to make qualified

low-income community investments in qualified active low-income community businesses located in the State by the 2nd anniversary of the initial credit allowance date;

(2) Is acquired after December 31, 2011 at its original issuance solely in exchange for cash; and

(3) Is designated by the issuer as a qualified equity investment and is certified by the authority pursuant to Title 10, section 1100-Z, subsection 3, paragraph G. "Qualified equity investment" includes any qualified equity investment that does not meet the provisions of Title 10, section 1100-Z, subsection 3, paragraph G if the investment was a qualified equity investment in the hands of a prior holder. The qualified community development entity shall keep sufficiently detailed books and records with respect to the investments made with the proceeds of the qualified equity investments to allow the direct tracing of the proceeds into qualified low-income community investments in qualified active low-income community businesses in the State.

J. "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business made after September 28, 2011. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments that may be made in the business, on a collective basis with all of its affiliates, with the proceeds of qualified equity investments that have been certified under Title 10, section 1100-Z, subsection 3, paragraph G is \$10,000,000 whether made by one or several qualified community development entities.

**2. Credit allowed.** A person that holds a qualified equity investment certified by the authority pursuant to Title 10, section 1100-Z, subsection 3, paragraph G on a credit allowance date that falls within the taxable year is allowed a credit equal to the applicable percentage that applies to the credit allowance date multiplied by the purchase price paid for the qualified equity investment. Notwithstanding any other provision of law, other than the recapture provisions of subsection 7, the person, and any subsequent person, that is the holder of the credit certificate issued by the authority for a qualified equity investment is entitled, in the aggregate, to the entire 39% credit amount computed with respect to the 7 credit allowance dates. In no event may the credit amount in the aggregate exceed 39% for any single qualified equity investment certified by the authority.

**3. Memorandum of agreement.** Upon receipt of the authority's written notice of the certification of a

qualified equity investment's tax credit eligibility, the commissioner shall enter into an agreement on behalf of the State with the person eligible to claim the credit pursuant to Title 10, section 1100-Z, subsection 3, paragraph G. That agreement must provide that the State shall, with the exception of recapture pursuant to subsection 7, allow the tax credit as provided for in subsection 2 and recognize that the person named as eligible for tax credit pursuant to Title 10, section 1100-Z, subsection 3, paragraph G is entitled to claim the tax credits and the respective tax credit amounts in the aggregate, to the entire 39% credit amount computed with respect to the 7 credit allowance dates.

**4. Carry-over to succeeding year.** Any unused portion of the credit may be carried over to the following taxable year or years, except that the carry-over period for unused credit amounts may not exceed 20 years.

**5. Pass-through entity; allocation of the credit.** Credits allowed pursuant to this section to a partnership, limited liability company, S corporation or other similar pass-through entity must be allocated to the partners, members, shareholders or other owners in accordance with section 5219-G or pursuant to an executed agreement among the partners, members or shareholders or other owners documenting an alternate allocation method.

**6. Credit refundable.** The credit allowed under this section is fully refundable.

**7. Recapture of credits.** The State Tax Assessor may recapture all of the credit allowed under this section if:

A. Any amount of federal tax credits available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under the Code, Section 45D. In such a case, the recapture must be proportionate to the federal recapture with respect to the qualified equity investment;

B. The qualified community development entity redeems or makes a principal repayment with respect to the qualified equity investment that generated the tax credit prior to the final credit allowance date of the qualified equity investment. In such a case, the recapture must be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment; or

C. The qualified community development entity fails to invest at least 85% of the purchase price of the qualified equity investment in qualified low-income community investments in qualified active low-income community businesses located in the State within 24 months of the issuance of the qualified equity investment and maintain this level of investment in qualified low-income community investments in qualified active low-

income community businesses located in the State until the last credit allowance date for the qualified equity investment. For purposes of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment is considered held by the qualified community development entity even if the investment has been sold or repaid as long as the qualified community development entity reinvests an amount equal to the capital returned to or recovered from the original investment, exclusive of any profits realized, in another qualified active low-income community business in this State within 12 months of the receipt of the capital. A qualified community development entity may not be required to reinvest capital returned from qualified low-income community investments after the 6th anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment is considered to be held by the issuer through the qualified equity investment's final credit allowance date.

The qualified community development entity must be provided 90 days to cure any deficiency indicated in the authority's original recapture notice and avoid such recapture. If the entity fails or is unable to cure the deficiency within the 90-day period, the assessor shall provide the qualified community development entity and the person from whom the credit is to be recaptured with a final order of recapture. Any amount of tax credits for which a final recapture order has been issued must be recaptured from the person that actually claimed the tax credit.

**Sec. 34. 38 MRSA §2138, sub-§3**, as enacted by PL 1989, c. 585, Pt. A, §7, is repealed.

**Sec. 35. Application.** Those sections of this Act that enact the Maine Revised Statutes, Title 36, section 2533 and section 5219-HH apply to tax years beginning on or after January 1, 2012. That section of this Act that amends Title 36, section 5164, subsection 1 applies to tax years beginning on or after January 1, 2012.

**Sec. 36. Retroactivity.** Those sections of this Act that amend the Maine Revised Statutes, Title 10, section 1020-C apply retroactively to June 3, 2011. That section of this Act that repeals and replaces Title 36, section 2531 applies retroactively to taxes on all premiums received on or after July 1, 2011. That section of this Act that enacts Title 36, section 2534 applies retroactively to September 28, 2011. That section of this Act that amends Title 36, section 5216-D, subsections 3 and 4 applies retroactively to June 20, 2011. Those sections of this Act that amend Title 36, section 5122, subsection 2, paragraph II; section 5142, subsection 8-B, paragraph C; and section 5200-A, sub-

section 2, paragraph V apply retroactively to tax years beginning on or after January 1, 2011. That section of this Act that repeals and replaces Title 36, section 5219-GG applies retroactively to tax years beginning on or after January 1, 2011.

See title page for effective date.

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## CHAPTER 549

### H.P. 1298 - L.D. 1765

#### An Act To Sustain the Elver Fishery

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

**Whereas**, the elver fishing season begins March 22, 2012; and

**Whereas**, there are widespread violations in the elver fishery due to the dramatic increase in the price per pound of elvers and harsher penalties need to be in effect to combat the violations; and

**Whereas**, a change in the closed periods will help elver fishing license holders protect their gear from molestation; and

**Whereas**, a requirement for elver dealer's license holders to return their product to a permanent establishment will strengthen the position of licensed elver dealers of this State in an international market and help the economy of this State; 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. 12 MRSA §6404-A**, as amended by PL 2001, c. 421, Pt. B, §18 and affected by Pt. C, §1, is further amended to read:

#### **§6404-A. Suspension or revocation based on adjudication of molesting elver gear**

The commissioner shall suspend or revoke the elver fishing license of any license holder adjudicated in court of violating section 6575-D. ~~This suspension must be for one year from the date of adjudication.~~

**1. First offense.** For a first offense, the commissioner shall suspend the license holder's license for 3 years.

2. Second offense. For a 2nd offense, the commissioner shall permanently revoke the license holder's license.

**Sec. 2. 12 MRSA §§6404-H to 6404-K** are enacted to read:

**§6404-H. Suspension or revocation based on adjudication or conviction of an elver fishing license offense**

The commissioner shall suspend or revoke a person's eligibility for the elver lotteries under section 6505-A, subsection 2-B if the person is adjudicated in court or convicted of an offense in violation of section 6505-A, subsection 1.

1. First offense. For a first offense, the commissioner shall suspend the person's eligibility for the elver lotteries under section 6505-A, subsection 2-B for one year.

2. Second offense. For a 2nd offense, the commissioner shall permanently revoke the person's eligibility for the elver lotteries under section 6505-A, subsection 2-B.

**§6404-I. Suspension or revocation based on adjudication of untagged elver gear**

The commissioner shall suspend or revoke the elver fishing license of any license holder adjudicated in court of violating section 6505-B.

1. First offense. For a first offense, the commissioner shall suspend the license holder's license for one year.

2. Second offense. For a 2nd offense, the commissioner shall permanently revoke the license holder's license.

**§6404-J. Suspension or revocation based on adjudication of fishing during closed season or a closed period**

The commissioner shall suspend or revoke the elver fishing license of any license holder adjudicated in court of violating section 6575 or 6575-A.

1. First offense. For a first offense, the commissioner shall suspend the license holder's license for one year.

2. Second offense. For a 2nd offense, the commissioner shall permanently revoke the license holder's license.

**§6404-K. Suspension or revocation based on adjudication of a violation of an elver dealer's license**

The commissioner shall suspend or revoke the elver dealer's license of any elver dealer's license holder adjudicated in court of violating section 6864.

1. First offense. For a first offense, the commissioner shall suspend the license holder's license for one year.

2. Second offense. For a 2nd offense, the commissioner shall permanently revoke the license holder's license.

**Sec. 3. 12 MRSA §6505-A, sub-§2,** as amended by PL 2007, c. 615, §15, is further amended to read:

2. Eligibility. An elver fishing license may be issued only to an individual who:

C. Possessed an elver fishing license in the previous calendar year; ~~or~~

E. Did not possess an elver fishing license in the previous calendar year because the commissioner had suspended the person's license privileges for a length of time that included the previous calendar year; ~~or~~

F. Becomes eligible to obtain an elver fishing license pursuant to the elver lotteries under subsection 2-B.

**Sec. 4. 12 MRSA §6505-A, sub-§2-B** is enacted to read:

**2-B. Elver lotteries.** The commissioner shall establish a dual lottery system under which the number of pieces of gear authorized does not exceed the number of pieces of gear authorized as of December 31, 2011.

A. The commissioner shall establish an elver gear lottery under which gear authorizations for use under a license issued under subsection 1 that is not renewed become available to other license holders in the elver gear lottery.

(1) The elver gear lottery must be held on or before February 15th of each calendar year beginning in 2013.

(2) In order to be eligible for the elver gear lottery, a person must hold an elver fishing license pursuant to subsection 1 and must have authorization to use only a dip net.

(3) In order to be eligible for the elver gear lottery, a person must submit to the Commissioner of Marine Resources a lottery application together with a \$25 nonrefundable application fee no later than January 15th for the lottery to be held by the following February 15th.

(4) A person may submit no more than one elver gear lottery application per lottery year.

(5) A person selected in the elver gear lottery must relinquish a dip net authorization that

person holds in exchange for authorization to use an elver fyke net.

B. The commissioner shall establish an elver fishing license lottery under which a person who did not hold an elver fishing license in the previous calendar year may become eligible to obtain that license. The number of persons issued licenses under this paragraph may not exceed the number of individual gear authorizations remaining after the elver gear lottery.

(1) The elver fishing license lottery must take place after the elver gear lottery.

(2) The elver fishing license lottery must be held on or before February 15th of each calendar year beginning in 2013.

(3) In order to be eligible for the elver fishing license lottery, a person must submit a lottery application together with a \$25 nonrefundable application fee no later than January 15th of the same calendar year as the lottery.

(4) A person may submit no more than one elver fishing license lottery application per lottery year.

The commissioner shall adopt rules no later than December 31, 2012 to implement the elver gear lottery and the elver fishing license lottery. The rules must include provisions for the method and administration of the lotteries. The elver gear lottery must be set up so that gear authorizations associated with a license that is not renewed go into the elver gear lottery. If a person who held a license that is not renewed has 2 authorized pieces of gear, the gear authorizations must be divided and made available to 2 lottery entrants. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Application fees collected under this subsection must be deposited in the Eel and Elver Management Fund established in section 6505-D.

**Sec. 5. 12 MRSA §6505-A, sub-§8**, as enacted by PL 2001, c. 421, Pt. B, §29 and affected by Pt. C, §1, is repealed and the following enacted in its place:

**8. Violation.** The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of \$2,000 may be adjudged.

B. A person who violates this section after having previously violated this section commits a Class D crime.

**Sec. 6. 12 MRSA §6505-B, sub-§6**, as enacted by PL 2001, c. 421, Pt. B, §30 and affected by Pt. C, §1, is amended to read:

**6. Violation.** A person who violates this section commits a civil violation for which a ~~forfeiture fine of not less than \$100 nor more than \$500~~ \$2,000 may be adjudged.

**Sec. 7. 12 MRSA §6575-A**, as amended by PL 1999, c. 7, §8, is further amended to read:

**§6575-A. Closed period; elver harvesting**

It is unlawful for a person to fish for or take elvers from noon ~~Friday~~ Tuesday to noon Wednesday, and from noon Saturday to noon Sunday. A person may leave an elver fyke net or a Sheldon eel trap in the waters of the State during the closed period if the net or trap is left in a condition that prevents the capture of elvers. The terminal portion of a fyke net cod end must contain a rigid device with an opening not less than 3 inches in diameter and not exceeding 6 inches in length that is unobstructed by any other portion of the net.

**Sec. 8. 12 MRSA §6575-D, sub-§2**, as repealed and replaced by PL 2001, c. 421, Pt. B, §34 and affected by Pt. C, §1, is amended to read:

**2. Violation.** A person who violates this section commits a civil violation for which a ~~forfeiture fine of not less than \$100 nor more than \$500~~ \$2,000 may be adjudged.

**Sec. 9. 12 MRSA §6864**, as amended by PL 2009, c. 478, §5, is further amended to read:

**§6864. Elver dealer's license**

**1. License required.** A person may not buy, possess, ship, transport or sell elvers without an elver dealer's license. It is unlawful for a person to possess elvers prior to the beginning of the elver season and to possess elvers 5 days beyond the end of the elver season pursuant to section 6575.

**2. License limited.** An elver dealer's license authorizes the licensed activities at only one ~~establishment or with only one vehicle~~ permanent facility.

**3. Supplemental license.** A supplemental license must be obtained for each ~~vehicle or~~ additional establishment or vehicle permanent facility.

**4. Fee.** The fee for an elver dealer's license is \$1,213 and the fee for each supplemental license is \$63.

**5. Disposition of fees.** All fees collected under this section accrue to the Eel and Elver Management Fund established in section 6505-D, except that \$376 accrues to the General Fund for each elver dealer's license sold under this section and \$52 accrues to the General Fund for each supplemental license sold under this section.

**7. Violation.** A person who violates this section commits a civil violation for which a ~~forfeiture fine of not less than \$100 nor more than \$500~~ \$2,000 may be adjudged.

**8. Reporting.** A dealer licensed under this section shall report the total annual harvest of elvers received by that dealer to the department within 30 days after the end of the elver fishing season. The commissioner shall prescribe how that data and any other information necessary for a meaningful analysis of the elver harvest are reported to the department.

**9. Authorized representatives.** A person who holds an elver dealer's license may identify authorized representatives to act on the license holder's behalf to purchase elvers at locations other than the permanent facility. The elver dealer's license holder must identify authorized representatives on forms provided by the department.

**10. Purchase of elvers.** A person who holds an elver dealer's license, or the authorized representative of that person under subsection 9, may purchase elvers from licensed harvesters at locations other than the permanent facility identified on the license holder's license. The license holder or the license holder's authorized representative shall keep a record that identifies each harvester from which elvers were purchased and the amount of elvers purchased from each harvester. The license holder or the license holder's authorized representative shall make the record available for inspection by a marine patrol officer.

**11. Shipment or transport of elvers outside state limits.** A person who holds an elver dealer's license or the elver dealer's license holder's authorized representative under subsection 9 must transport elvers to a permanent facility identified on the license holder's license prior to shipping or transporting elvers outside state limits.

A holder of an elver ~~dealer~~ dealer's license when buying directly from a harvester may buy only from a harvester who possesses an elver fishing license under section 6505-A. The harvester shall make the elver fishing license available for inspection upon the elver ~~dealer~~ dealer's license holder's request.

The commissioner may adopt rules to implement and enforce requirements under this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 10. Appropriations and allocations.** The following appropriations and allocations are made.

**MARINE RESOURCES, DEPARTMENT OF  
Sea Run Fisheries and Habitat Z049**

Initiative: Provides funding from an increase in revenue related to application fees for the elver license lottery.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$5,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$5,000

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

Effective March 29, 2012.

**CHAPTER 550**

**S.P. 549 - L.D. 1650**

**An Act Concerning the  
Collection of Child Support  
Obligations**

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

**Whereas**, currently child support obligations are automatically suspended during the period a child support obligor receives public assistance; and

**Whereas**, current law prohibits the collection of child support debts from child support obligors who are receiving public assistance; and

**Whereas**, lump sum payments to child support obligors should be available for satisfying past-due child support debts, even while obligors are receiving public assistance; and

**Whereas**, amending the law to allow the interception of lump sum payments will benefit children due child support; and

**Whereas**, the Department of Health and Human Services will amend its rules to ensure that a child support obligor receiving public assistance does not lose benefits based on a lump sum payment when the lump sum payment is intercepted and used to pay past-due child support; 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. 19-A MRSA §2302, sub-§2**, as enacted by PL 2001, c. 255, §1, is amended to read:

**2. Child support obligation during period that obligor is assisted obligor.** For the period during which an obligor is an assisted obligor and for 2 weeks thereafter, the assisted obligor's child support obligation is automatically suspended. At the end of the 2 weeks, the obligor's child support obligation resumes automatically at the same level at which it was suspended unless modified by an order entered pursuant to subsection 3.

A debt previously incurred under section 2301 may not be collected from a responsible parent while that parent is an assisted obligor, except that such a debt may be collected from nonrecurring lump sum income, as defined in Title 22, section 3762, subsection 11, paragraph A, of a responsible parent while that parent is an assisted obligor.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect July 1, 2012.

Effective July 1, 2012.

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**CHAPTER 551**

**S.P. 547 - L.D. 1648**

**An Act To Clarify the Site Location of Development Laws Regarding Exemptions for Previously Developed Sites**

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

**Sec. 1. 38 MRSA §488, first ¶**, as amended by PL 1997, c. 72, §3, is further amended to read:

This article does not apply to any development in existence or in possession of applicable state or local licenses to operate or under construction on January 1, 1970, or to any development the construction and operation of which has been specifically authorized by the Legislature prior to May 9, 1970, or to public service corporation transmission lines, except transmission lines carrying 100 kilovolts or more, nor does it apply to the renewal or revision of leases of parcels of land upon which a structure or structures have been located as of March 15, 1972, nor to the rebuilding or reconstruction of natural gas pipelines or transmission lines within the same right-of-way. For purposes of this paragraph, development that reuses a building and associated facilities in existence on January 1, 1970 is exempt from review under this article. When determining if development meets the definition of "devel-

opment of state or regional significance that may substantially affect the environment" and therefore is subject to review under this article, the department may not consider development in existence on January 1, 1970 that is exempt from review pursuant to this paragraph. When reviewing a proposal for development of state or regional significance that may substantially affect the environment under this article, the department may not consider in the review any development in existence on January 1, 1970 that is exempt from review pursuant to this paragraph.

**Sec. 2. 38 MRSA §488, sub-§15**, as amended by PL 1997, c. 748, §4, is further amended to read:

**15. Exemption for former military bases.** Development on a military base at the time ownership of the military base is acquired by a state or local development authority is exempt from review under this article. Subsequent transfer of ownership or lease of a former military base or any portion of a former military base by a state or local development authority to another entity does not affect the exemption granted under this subsection. Development proposed or occurring on a former military base after ownership of the military base is acquired by a state or local development authority is subject to review under this article, ~~except that section 482, subsection 2, paragraph E does not apply to the development~~ to the extent that the development reuses a building and associated facilities in existence on September 29, 1995.

For purposes of this subsection, "military base" means all property under the ownership or control of a federal military authority prior to the acquisition of ownership by a state or local development authority, the ownership of which is subsequently acquired by a state or local development authority. For purposes of this subsection, "ownership" means a fee interest or leasehold interest in property.

A. Development that is not exempt under this subsection is subject to review under this article if it meets the definition of "development of state or regional significance that may substantially affect the environment."

B. When reviewing a proposal for development of state or regional significance that may substantially affect the environment, the department may not consider in the review any development that is exempt from review pursuant to this subsection.

**Sec. 3. 38 MRSA §488, sub-§§26, 27 and 28** are enacted to read:

**26. Exemption for existing ski area facilities.** New construction at or a modification of a ski area facility permitted pursuant to this article is exempt from review under this article as provided in this subsection.

A. New construction at or a modification of a ski area facility permitted pursuant to this article is exempt from review under this article if:

- (1) The additional disturbed area not to be revegetated does not exceed 30,000 square feet ground area in any calendar year and does not exceed 60,000 square feet ground area in total;
- (2) The construction or modification does not involve a division of the parcel of land;
- (3) The construction or modification is not of a building having an area in excess of 3,500 square feet; and
- (4) It is construction or modification of equipment or facilities that are ancillary to and necessary for the operation of the ski area facility permitted pursuant to this article, including, but not limited to, snowmaking equipment, lift towers, lights, signs, fences, water or air pumps, pump houses and storage buildings.

B. The permittee shall annually notify the department of any new construction or modifications conducted during the previous 12 months that fall under this exemption. The notice must identify the type, location and ground area of the new construction or modification. With the annual notification, the permittee shall provide to the department development plans certified by a professional engineer for the new construction or modification undertaken pursuant to this subsection.

C. When review under this article is required for new construction at or a modification of a permitted ski area facility, the permittee shall provide plans for the new development, as well as for those activities that have been undertaken pursuant to this subsection.

**27. Exemption for educational institutions.**

New construction at or a modification of a campus of an educational institution permitted pursuant to this article is exempt from review under this article as provided in this subsection. For purposes of this subsection, "educational institution" means any private or public school or postsecondary institution.

A. New construction at or a modification of a campus of an educational institution permitted pursuant to this article is exempt from review under this article if the additional disturbed area not to be revegetated does not exceed 30,000 square feet ground area in any calendar year and does not exceed 60,000 square feet ground area in total.

B. The permittee shall annually notify the department of any new construction or modifications conducted during the previous 12 months

that fall under this exemption. The notice must identify the type, location and ground area of the new construction or modification. With the annual notification, the permittee shall provide to the department development plans certified by a professional engineer for the new construction or modification undertaken pursuant to this subsection.

C. When review under this article is required at an educational institution permitted pursuant to this article, the permittee shall provide plans for the new development, as well as for those activities that have been undertaken pursuant to this subsection.

D. Nothing in this subsection authorizes a person to undertake an activity on a parcel of land affected by an order or permit issued by the department that is contrary to that order or permit.

**28. Applicability of exemptions.** Unless otherwise specifically provided, nothing in this section exempts any activity from any requirements under this Title, rules adopted pursuant to this Title or the terms or conditions of a license, permit or order issued by the board or the commissioner.

See title page for effective date.

**CHAPTER 552**

**H.P. 1245 - L.D. 1693**

**An Act To Amend the Law  
Governing Abatements of  
Property Taxes for Infirmary or  
Poverty and the  
Administration of the  
Circuitbreaker Program**

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

**Sec. 1. 36 MRSA §841, sub-§2,** as amended by PL 2005, c. 169, §1, is further amended to read:

**2. Infirmary or poverty.** The municipal officers, or the State Tax Assessor for the unorganized territory, within 3 years from commitment, may, on their own knowledge or on written application ~~therefor~~, make such abatements as they believe reasonable on the real and personal taxes on the primary residence of any person who, by reason of infirmity or poverty, is in their judgment unable to contribute to the public charges. The municipal officers, or the State Tax Assessor for the unorganized territory, may extend the 3-year period within which they may make abatements under this subsection.

Municipal officers or the State Tax Assessor for the unorganized territory shall:

A. Provide that any person indicating an inability to pay all or part of taxes that have been assessed because of poverty or infirmity be informed of the right to make application under this subsection;

B. Assist individuals in making application for abatement;

C. Make available application forms for requesting an abatement based on poverty or infirmity and provide that those forms contain notice that a written decision will be made within 30 days of the date of application;

D. Provide that persons are given the opportunity to apply for an abatement during normal business hours;

E. Provide that all applications, information submitted in support of the application, files and communications relating to an application for abatement and the determination on the application for abatement are confidential. Hearings and proceedings held pursuant to this subsection must be in executive session;

F. Provide to any person applying for abatement under this subsection, notice in writing of their decision within 30 days of application; and

G. Provide that any decision made under this subsection include the specific reason or reasons for the decision and inform the applicant of the right to appeal and the procedure for requesting an appeal.

For the purpose of this subsection, the municipal officers may set off or otherwise treat as available benefits provided to an applicant under chapter 907 when determining if the applicant is able to contribute to the public charges.

**Sec. 2. 36 MRSA §6201, sub-§10,** as amended by PL 2007, c. 325, §1, is further amended to read:

**10. Property taxes accrued.** "Property taxes accrued" means property taxes exclusive of special assessment, delinquent interest and charges for service levied on a claimant's homestead in this State as of April 1, 1972, or any tax year thereafter. If a claimant receives an abatement of property taxes based on infirmity or poverty pursuant to section 841, subsection 2 during the year for which relief is requested, "property taxes accrued" means only the portion of property taxes levied that was not abated during the year for which the claimant requests relief. If a homestead is owned by 2 or more persons or entities as joint tenants or tenants in common, and one or more persons or entities are not members of the claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership percentage of the claimant and the claimant's household. If a claimant and spouse own their homestead for

part of the year for which relief is requested and rent it or a different homestead for part of the same tax year, "property taxes accrued" means taxes levied on the homestead on April 1st, multiplied by the percentage of 12 months that the property was owned and occupied by the household as its homestead during the year for which relief is requested. When a household owns and occupies 2 or more different homesteads in this State in the same calendar year, property taxes accrued relate only to the total of the property taxes owed for the time that each property was occupied by the household as a homestead. To calculate the amount attributable to each property, the April 1st assessment on each homestead is multiplied by the percentage of 12 months that each property was owned and occupied by the claimant as the claimant's homestead during the year for which relief is requested. If a homestead is an integral part of a larger unit such as a farm, or a multi-purpose or multidwelling building, property taxes accrued are that percentage of the total property taxes accrued that the value of the homestead is of the total value, except that property taxes accrued do not include any portion of taxes claimed as a business expense for federal income tax purposes. For purposes of this chapter, "unit" refers to the parcel of property separately assessed of which the homestead is a part.

See title page for effective date.

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## CHAPTER 553

### H.P. 1286 - L.D. 1744

#### **An Act To Require Carbon Monoxide Detectors in Additional Residential Occupancies**

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

**Sec. 1. 25 MRSA §2468, sub-§2, ¶¶B and C,** as enacted by PL 2009, c. 162, §5, are repealed and the following enacted in their place:

**B. Any addition to or restoration of:**

(1) An existing single-family dwelling that adds at least one bedroom to the dwelling unit; or

(2) A fraternity house, sorority house or dormitory established on or after August 1, 2012 that is affiliated with a private or public school or private or public postsecondary institution incorporated or chartered under the laws of this State; or

**C. Any conversion of a building to:**

(1) A single-family dwelling;

(2) A hotel, motel, inn or bed and breakfast upon initial licensure as an eating and lodging place or a lodging place under Title 22, chapter 562 on or after August 1, 2012; or

(3) A fraternity house, sorority house or dormitory established on or after August 1, 2012 that is affiliated with a private or public school or private or public postsecondary institution incorporated or chartered under the laws of this State.

**Sec. 2. 25 MRSA §2468, sub-§4**, as amended by PL 2009, c. 551, §8, is repealed and the following enacted in its place:

**4. New construction.** A person who constructs any of the following shall install or cause to be installed at least one carbon monoxide detector in each area within, or giving access to, any bedroom in the new construction of:

A. A single-family dwelling:

B. A hotel, motel, inn or bed and breakfast upon initial licensure of that new construction as an eating and lodging place or a lodging place under Title 22, chapter 562 on or after August 1, 2012; or

C. A fraternity house, sorority house or dormitory established on or after August 1, 2012 that is affiliated with a private or public school or private or public postsecondary institution incorporated or chartered under the laws of this State.

The carbon monoxide detector must be powered both by the electrical service in the building or dwelling and by battery.

See title page for effective date.

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**CHAPTER 554**

**H.P. 1305 - L.D. 1773**

**An Act Regarding Insurance Adjusters and Reporting Requirements for Insurance Companies**

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

**Sec. 1. 24-A MRSA §1402, sub-§1, ¶¶E and F**, as enacted by PL 1997, c. 457, §23 and affected by §55, are amended to read:

E. Persons adjusting only life and health insurance claims; or

F. Adjuster trainees; or

**Sec. 2. 24-A MRSA §1402, sub-§1, ¶G** is enacted to read:

G. An individual who satisfies the following with regard to portable electronic device insurance as defined under section 7001, subsection 6, paragraph A:

(1) The individual collects claim information from, or furnishes claim information to, insureds or claimants and conducts data entry including entering data into an automated claims adjudication system; and

(2) The individual is an employee of an adjuster licensed under this chapter or the adjuster's affiliate.

No more than 25 individuals under the supervision of one licensed adjuster or insurance producer described under paragraph C may be exempt pursuant to this paragraph.

For purposes of this paragraph, "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation and final resolution of portable electronic device insurance claims that is used by an adjuster, insurance producer or supervised individual operating pursuant to this paragraph; complies with all claims payment requirements of the Maine Insurance Code; and is certified as compliant with this paragraph by a licensed adjuster that is an officer of a business entity licensed under this chapter.

**Sec. 3. 24-A MRSA §1413, sub-§2**, as amended by PL 2001, c. 259, §14, is further amended to read:

**2. Officers; directors; members; partners.** A business entity shall notify the superintendent of its members, directors, officers or partners, and of all executive officers and directors of entities owning and individuals owning, directly or indirectly, 51% or more of the outstanding voting securities of the applicant, within 14 days of a request for such information by the superintendent.

See title page for effective date.

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**CHAPTER 555**

**S.P. 541 - L.D. 1631**

**An Act To Address Research and Teaching in Maine's Institutions of Higher Education by Amending the Laws Governing the Purchase of Goods and Services by the State Involving Institutions of Higher Education**

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

**Sec. 1. 5 MRSA §1825-B, sub-§2, ¶E**, as repealed and replaced by PL 1995, c. 625, Pt. A, §5 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

E. The purchase is part of a cooperative project between the State and the University of Maine System ~~or~~, the Maine Community College System, ~~the Maine Maritime Academy or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State~~ involving:

- (1) An activity assisting a state agency and enhancing the ability of the university system ~~or~~, community college system, ~~Maine Maritime Academy or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State~~ to fulfill its mission of teaching, research and public service; and
- (2) A sharing of project responsibilities and, when appropriate, costs;

See title page for effective date.

**CHAPTER 556**

**H.P. 1262 - L.D. 1710**

**An Act To Amend the Motor Vehicle Laws**

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

**Sec. 1. 29-A MRSA §101, sub-§6-B** is enacted to read:

**6-B. Autocycle.** "Autocycle" means an enclosed motorcycle having no more than 3 wheels in contact with the ground and that:

A. Meets the general motorcycle inspection standards, except those standards that do not apply due to the design of the vehicle; and

B. Is equipped with:

- (1) Safety belts for all passengers;
- (2) A roll bar or enclosed cab;
- (3) A steering wheel or tiller; and
- (4) Brakes on at least 2 main wheels.

The manufacturer's certificate of origin must state that the vehicle meets the federal specifications for a motorcycle.

This subsection is repealed 90 days after the adjournment of the First Regular Session of the 126th Legislature.

**Sec. 2. 29-A MRSA §202**, as amended by PL 2001, c. 671, §2, is further amended to read:

**§202. Appointment of agents for the issuance of noncommercial driver's license renewals, duplicates of noncommercial driver's license renewals and nondriver identification card renewals**

The Secretary of State may appoint agents authorized ~~solely to issue renewals of operator's licenses and to issue noncommercial driver's license renewals, duplicates of noncommercial driver's license renewals and nondriver identification card renewals~~ who are stationed at convenient locations in the State. Agents may charge an applicant a fee over the required ~~operator's license fee~~ fees for each renewal or duplicate issued. The agent retains the additional fee and forwards all other fees to the Secretary of State. The Secretary of State shall determine by rule the fee to be charged by an agent under this section. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter ~~H-A 2-A~~.

~~Renewal agents~~ Agents appointed pursuant to this section are not authorized to issue registrations ~~or~~, initial ~~operator's noncommercial driver's~~ licenses ~~or initial nondriver identification cards~~.

**Sec. 3. 29-A MRSA §456-F, sub-§6**, as enacted by PL 2007, c. 703, §10, is amended to read:

**6. Duplicate plates.** The Secretary of State shall issue an agriculture education plate in a 3-number and 3-letter combination sequence or in another sequence at the discretion of the Secretary of State. Vanity plates may not duplicate vanity plates issued in another class of plate.

**Sec. 4. 29-A MRSA §501, sub-§7, ¶G** is enacted to read:

G. The Secretary of State may issue unassigned temporary registration permits to a vehicle auction business licensed under section 1051 to allow the movement of a vehicle sold to a dealer.

**Sec. 5. 29-A MRSA §501, sub-§12-A** is enacted to read:

**12-A. Autocycles.** The Secretary of State may issue a registration for an autocycle upon application and payment of an annual fee of \$21. The registrant must provide a certificate of title required by section 651, proof of financial responsibility required by section 1601 and evidence of payment of the excise tax as required by Title 36, section 1482, subsection 1, paragraph C. An autocycle registered under this section is issued a registration plate with the word "autocycle"

instead of "Vacationland." The Secretary of State may issue a facsimile plate for a 60-day period.

This subsection is repealed 90 days after the adjournment of the First Regular Session of the 126th Legislature.

**Sec. 6. 29-A MRSA §664-A, sub-§5**, as enacted by PL 1997, c. 437, §20, is amended to read:

**5. Sold at auction.** A Except for a vehicle sold to a dealer at a vehicle auction licensed under section 852, a vehicle that is sold or displayed for sale at an auction must be accompanied by a valid certificate of title or salvage at the time of its sale or display. A salvage vehicle sold or displayed for sale at an auction or insurance salvage pool must be accompanied by a valid certificate of salvage at the time of its sale or display for sale, unless it is accompanied by a certificate of title from a jurisdiction that does not issue certificates of salvage. The seller of a vehicle sold to a dealer at a vehicle auction licensed under section 852 must provide the purchasing dealer with a valid certificate of title or certificate of salvage within 30 days.

**Sec. 7. 29-A MRSA §952, sub-§1, ¶B**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

B. A repair department for repair of 2 vehicles ~~simultaneously~~;

**Sec. 8. 29-A MRSA §954, sub-§5**, as enacted by PL 2007, c. 273, Pt. B, §5 and c. 306, §7 and affected by c. 695, Pt. A, §47, is further amended to read:

**5. Transporter.** A garage owner, body shop, finance company, bank, motor vehicle auction business, motor vehicle rental company, recycler or repossession company licensed by the Bureau of Consumer Credit Protection or any public or nonprofit organization as described in section 951, subsection 4 may be issued transporter plates and a license to transport a vehicle owned by or in the custody of that owner or business.

A. The holder may use this plate only if the vehicle is accompanied by the owner or the owner's employee.

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. 9. 29-A MRSA §1311, sub-§2**, as enacted by PL 2003, c. 286, §4, is amended to read:

**2. Period of restrictions.** ~~Unless extended Subject to section 2116 and subject to extension~~ pursuant to subsection 3, the license restrictions in subsection 1 are in effect for a period of 180 days from license issuance.

**Sec. 10. 29-A MRSA §1354, sub-§1, ¶E**, as enacted by PL 1995, c. 505, §15 and affected by §22 and amended by PL 2003, c. 545, §5, is repealed.

**Sec. 11. 29-A MRSA §1354, sub-§1, ¶F**, as enacted by PL 1995, c. 505, §15 and affected by §22, is amended to read:

F. "Instructor" means a person engaged in teaching driver education ~~in a commercial driver education school~~.

**Sec. 12. 29-A MRSA §1354, sub-§2**, as enacted by PL 1995, c. 505, §15 and affected by §22, is amended to read:

**2. Licenses required.** A person may not operate a driver education school, conduct driver education or act as an instructor ~~or driver education teacher~~ unless licensed by the Secretary of State.

A. A Class A driver education school license may be issued to a driver education school that employs Class A or Class B instructors ~~or driver education teachers~~ and that is authorized to teach both the classroom and behind-the-wheel phases of driver education.

B. A Class A instructor ~~or driver education teacher~~ license authorizes the holder to teach both the classroom and behind-the-wheel phases of driver education as an employee or affiliate of a licensed driver education school.

C. A Class B instructor ~~or driver education teacher~~ license authorizes the holder to teach only the behind-the-wheel phase of driver education as an employee or affiliate of a licensed driver education school.

**Sec. 13. 29-A MRSA §1354, sub-§3**, as amended by PL 1997, c. 776, §39, is further amended to read:

**3. Commercial driver education school license requirements.** With assistance from the Technical Review Panel established in subsection 6, the Secretary of State shall adopt rules governing the curriculum, facilities, operations, including record-keeping requirements, and issuance and renewal of licenses for noncommercial driver education schools and commercial driver education schools ~~and for driver education teachers~~ and instructors.

A. The Secretary of State may not issue a license for a driver education school until the applicant has filed with the Secretary of State a certificate showing that the applicant is covered by an automobile bodily injury and property damage liability

ity insurance policy insuring against any legal liability in accordance with the terms of the policy for personal injury or death of any one person in the sum of \$100,000 and for any number of persons in the sum of \$300,000 and against property damage in the sum of \$100,000 arising from the operation of any vehicle being used in a commercial driver education school. In lieu of that insurance, the applicant may file with the Secretary of State a bond or bonds issued by a surety company authorized to do business in the State in the amount of at least \$100,000 on account of injury to or death of one person and subject to such limits as respects injury to or death of one person, of at least \$300,000 on account of any one accident resulting in injury to or death of more than one person and of at least \$100,000 for damage to property of others. Failure to comply with this subsection is grounds for suspension or revocation of a driver education school license.

B. A vehicle used as a training vehicle must be maintained in safe mechanical condition at all times. Each vehicle must be equipped with dual-control foot brakes and, if the vehicle is not equipped with an automatic transmission, dual-control clutch pedals. While being used in actual instruction, a vehicle must be equipped with an identification sign listing the name of the school and a student driver sign.

The following vehicles are not required to have dual controls and an identification sign listing the name of the school and a student driver sign:

- (1) A vehicle that is being used to instruct a person with a disability and is specially equipped for use by a person with a disability; and
- (2) A vehicle that is being used to instruct a person in possession of a valid Maine driver's license or instruction permit when the vehicle is not provided by the driver education school.

**Sec. 14. 29-A MRSA §1354, sub-§4**, as enacted by PL 1995, c. 505, §15 and affected by §22, is amended to read:

**4. Instructor license requirements.** With assistance from the Technical Review Panel established in subsection 6, the Secretary of State shall adopt rules governing the issuance and renewal of ~~driver education teacher and~~ instructor licenses. In addition to the requirements established by rule, each applicant must meet the following requirements:

- A. The applicant must be at least 21 years of age and have a high school diploma or its equivalent;
- B. The applicant must have at least 4 years of driver experience as a licensed operator;

C. The applicant may not have had a license revoked pursuant to chapter 23, subchapter ~~V~~ 5 within the preceding 6-year period;

D. The applicant may not have had an OUI as defined in section 2401, subsection 8 within the preceding 6-year period;

E. The applicant must pass an examination consisting of a knowledge, vision and road test in the type of vehicle for which the license is to be used as prescribed by the Secretary of State; and

F. The applicant must complete an educational program prescribed by the Secretary of State.

**Sec. 15. 29-A MRSA §1354, sub-§5-A**, as amended by PL 2011, c. 442, §§1 and 2, is further amended to read:

**5-A. License fees.** License fees must be paid to the Secretary of State and deposited into the Highway Fund. The following fees apply.

A. The fee for a driver education school license is \$125.

B. The fee for a ~~driver education teacher or an~~ instructor license is \$100.

C. A driver education school license expires one year from the date of issuance. The fee for the renewal of a driver education school license is \$125. ~~A driver education teacher or An~~ instructor license expires 2 years from the date of issuance. The fee for the renewal of a ~~driver education teacher or an~~ instructor license is \$100.

D. A noncommercial driver education school that offers driver education for course credit and does not charge a fee for driver education is exempt from the license fees required in this subsection. ~~A driver education teacher~~ An instructor employed by and providing driver education only in a school exempt from license fees in accordance with this paragraph is also exempt from license fees required in this subsection.

**Sec. 16. 29-A MRSA §1354, sub-§6, ¶A**, as amended by PL 2003, c. 652, Pt. B, §7 and affected by §8, is further amended to read:

A. The Secretary of State shall establish the Technical Review Panel that includes representatives from the Department of Education, the Department of Public Safety, law enforcement agencies, the insurance industry, and the motor carrier industry and a ~~driver education teacher and instructor~~ 2 instructors. The Technical Review Panel shall assist the Secretary of State in developing curriculum and ~~teacher and~~ instructor training and certification.

**Sec. 17. 29-A MRSA §1354, sub-§6, ¶C**, as enacted by PL 1995, c. 505, §15 and affected by §22, is amended to read:

C. The Secretary of State shall develop and implement training programs for the licensing and relicensing of ~~driver education teachers and~~ instructors.

**Sec. 18. 29-A MRSA §1354, sub-§6, ¶G**, as enacted by PL 1995, c. 505, §15 and affected by §22, is amended to read:

G. The Secretary of State shall investigate written complaints regarding the activities of driver education schools and ~~driver education teachers and~~ instructors.

**Sec. 19. 29-A MRSA §1354, sub-§7**, as enacted by PL 1995, c. 505, §15 and affected by §22 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

**7. Penalties.** A person who conducts driver education, operates a driver education school or acts as a ~~driver education teacher or an~~ instructor without a license is guilty of a Class E crime. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted.

**Sec. 20. 29-A MRSA §1354, sub-§8**, as enacted by PL 1995, c. 505, §15 and affected by §22, is amended to read:

**8. Suspension or revocation of license; hearings.** The Secretary of State may suspend, revoke or refuse to issue or renew a driver education school or ~~driver education teacher~~ instructor license for non-compliance with statutory and regulatory requirements. A person refused a license or whose license is suspended or revoked may request a hearing with the Secretary of State. A requested hearing must be conducted pursuant to chapter 23, subchapter H ~~2~~, article 3.

**Sec. 21. 29-A MRSA §2357, sub-§1, ¶A**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. A vehicle loaded entirely with building materials that absorb moisture during delivery ~~originating and terminating within the State~~, bark, sawdust, firewood, sawed lumber, dimension lumber, pulpwood, wood chips, logs, soil, unconsolidated rock material including limestone, bolts, farm produce, road salt, manufacturer's concrete products, solid waste or incinerator ash;

**Sec. 22. 29-A MRSA §2382, sub-§5**, as repealed and replaced by PL 2011, c. 356, §23, is amended to read:

**5. Long-term permits.** The Secretary of State may grant permits for up to one year for trucks, truck tractors, semitrailers and Class A special mobile equipment. ~~The fee for an overlimit permit is \$25 per month. Notwithstanding Title 5, section 8071, subsection 2, paragraph A, the Secretary of State, in consultation with the Commissioner of Transportation, shall establish the fee schedule by rule. 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 557**

**S.P. 630 - L.D. 1822**

**An Act To Allow the Change of Location of a Licensed Large Game Shooting Area**

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

**Sec. 1. 7 MRSA §1342-C** is enacted to read:

**§1342-C. Change of location of licensed commercial large game shooting area**

A person holding a license for a commercial large game shooting area under section 1342 or 1342-A may apply to the commissioner for permission to change the location of the licensed area. The commissioner shall approve the change in location if the applicant demonstrates that the old location of the commercial large game shooting area will be discontinued and that the new location meets all of the applicable requirements of the section of law under which the original license was approved.

See title page for effective date.

**CHAPTER 558**

**S.P. 612 - L.D. 1774**

**An Act Regarding the Matching Funds Provisions of the Maine Clean Election Act**

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

**Sec. 1. 21-A MRSA §1017, sub-§3-B**, as corrected by RR 2009, c. 2, §46, is repealed.

**Sec. 2. 21-A MRSA §1019-B, sub-§4, ¶A**, as enacted by PL 2009, c. 524, §7, is amended to read:

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by

rule that takes into consideration existing campaign finance reporting requirements ~~and matching fund provisions under chapter 14~~. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 3. 21-A MRSA §1020-A, sub-§4-A**, as amended by PL 2007, c. 443, Pt. A, §22, is further amended to read:

**4-A. Basis for penalties.** The penalty for late filing of a report required under this subchapter, ~~except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B~~, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the commission within 5 calendar days thereafter.

~~The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.~~

**Sec. 4. 21-A MRSA §1020-A, sub-§5-A, ¶¶C and D**, as amended by PL 2003, c. 628, Pt. A, §4, are further amended to read:

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; or

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; ~~or.~~

**Sec. 5. 21-A MRSA §1020-A, sub-§5-A, ¶E**, as enacted by PL 2001, c. 714, Pt. PP, §1 and affected by §2, is repealed.

**Sec. 6. 21-A MRSA §1125, sub-§8-A, ¶¶A and B**, as enacted by PL 2009, c. 302, §17 and affected by §24, are amended to read:

A. The range of campaign spending by candidates for that office in the 2 preceding elections; and

B. The Consumer Price Index published monthly by the United States Department of Labor, Bureau of Labor Statistics and any other significant changes in the costs of campaigning such as postage or fuel; ~~and.~~

**Sec. 7. 21-A MRSA §1125, sub-§8-A, ¶C**, as enacted by PL 2009, c. 302, §17 and affected by §24, is repealed.

**Sec. 8. 21-A MRSA §1125, sub-§9**, as repealed and replaced by PL 2009, c. 652, Pt. A, §25 and affected by §26, is repealed.

**Sec. 9. 21-A MRSA §1125, sub-§13-A**, as amended by PL 2011, c. 389, §58 and affected by §62, is further amended to read:

**13-A. Distributions not to exceed amount in fund.** The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsection 8-A ~~or 9~~, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than the applicable contribution limits established by the commission pursuant to section 1015, up to the applicable amounts set forth in subsections subsection 8-A and 9 according to rules adopted by the commission.

This subsection takes effect September 1, 2011.

**Sec. 10. 21-A MRSA §1127, sub-§1**, as amended by PL 2009, c. 302, §23, is further amended to read:

**1. Civil fine.** In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine

not to exceed \$10,000 per violation payable to the fund. ~~The commission may assess a fine of up to \$10,000 for a violation of the reporting requirements of sections 1017 and 1019-B if it determines that the failure to file a timely and accurate report resulted in the late payment of matching funds.~~ In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the political committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. A final determination by the commission may be appealed to Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. Fines assessed or orders for return of funds issued by the commission pursuant to this subsection that are not paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

**Sec. 11. Appropriations and allocations.** The following appropriations and allocations are made.

**ETHICS AND ELECTION PRACTICES, COMMISSION ON GOVERNMENTAL**

**Governmental Ethics and Election Practices - Commission on 0414**

Initiative: Adjusts payments to candidates to reflect the elimination of matching funds.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	(\$927,880)
	\$0	(\$927,880)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$927,880)

See title page for effective date.

**CHAPTER 559  
S.P. 622 - L.D. 1802**

**An Act To Implement Recommendations of the Commission To Study Priorities and Timing of Judicial Proceedings in State Courts**

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

**PART A**

**Sec. A-1. 1 MRSA §409, sub-§1**, as amended by PL 2009, c. 240, §5, is further amended to read:

**1. Records.** If any body or agency or official who has custody or control of any public record refuses permission to inspect or copy or abstract a public record, this denial must be made by the body or agency or official in writing, stating the reason for the denial, within 5 working days of the request for inspection by any person. Any person aggrieved by denial may appeal, within 5 working days of the receipt of the written notice of denial, to any Superior Court within the State. If a court, after a trial de novo, determines such denial was not for just and proper cause, it shall enter an order for disclosure. Appeals are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus and actions brought by the State against individuals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

**Sec. A-2. 1 MRSA §409, sub-§2**, as amended by PL 2007, c. 695, Pt. C, §1, is further amended to read:

**2. Actions.** If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action is illegal and the officials responsible are subject to the penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void. Appeals are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus or actions brought by the State against individuals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

**Sec. A-3. 4 MRSA §184, sub-§6**, as amended by PL 2001, c. 471, Pt. D, §6, is further amended to read:

**6. Emergency proceedings.** The District Court has jurisdiction to revoke temporarily or suspend a license without notice or hearing upon the verified complaint or complaint accompanied by affidavits of a licensing agency or the Attorney General. The verified complaint or complaint accompanied by affidavits must demonstrate that summary action is necessary to prevent an immediate threat to the public health, safety or welfare. Upon issuance of an order revoking or suspending a license under this section, the District Court shall promptly schedule an expedited hearing on the agency's complaint. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Any order temporarily suspending or revoking a license expires within 30 days of issuance unless renewed by the court after such hearing as it may determine necessary.

This subsection may not be considered to abridge or affect the jurisdiction of the Superior Court or District Court to issue injunctive relief or to exercise such other powers as may be authorized by law or rule of the court.

**Sec. A-4. 7 MRSA §3952, sub-§4-B, ¶B,** as enacted by PL 1999, c. 350, §2, is amended to read:

B. The court shall hear and determine the motion ~~as expeditiously as possible, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.~~

**Sec. A-5. 8 MRSA §230,** as amended by PL 1985, c. 506, Pt. B, §§7 and 8, is further amended to read:

### §230. Appeals

Any person aggrieved by any decision of the Commissioner of Public Safety may appeal the decision to the Superior Court within 30 days. The court shall immediately, after notice and hearing, affirm or reverse the commissioner's decision. The finding of the Superior Court may be reviewed by appeal to the Supreme Judicial Court sitting as the Law Court.

**Sec. A-6. 9-B MRSA §363-A, sub-§10, ¶A,** as enacted by PL 2005, c. 83, §7, is amended to read:

A. The proceedings ~~must be given precedence over other pending court cases and must be expedited~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The person bringing the action has the burden of proof to show that the act or omission is unlawful or arbitrary and capricious. Only the financial institution may bring an action challenging the superintendent's order establishing the conservatorship. The court must uphold the superintendent's order establishing the conservatorship and the appoint-

ment of a conservator unless the court finds that the superintendent's action was unlawful or arbitrary and capricious.

**Sec. A-7. 9-B MRSA §367-A, sub-§4,** as enacted by PL 2005, c. 83, §10, is amended to read:

**4. Proceedings generally.** The superintendent, conservator or receiver may bring an action described in this chapter, or any other action as determined appropriate, in the county in which the financial institution is located or has its principal place of business or in the Superior Court of Kennebec County. The proceedings ~~must be given precedence over other pending court cases and must be expedited~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

**Sec. A-8. 9-B MRSA §369, sub-§2, ¶A,** as enacted by PL 2009, c. 228, §7, is amended to read:

A. Any proceedings under this section ~~must be given precedence over other pending court cases and must be expedited~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The person bringing the action has the burden of proof to show that the act or omission is unlawful or arbitrary and capricious.

**Sec. A-9. 10 MRSA §1020-A, sub-§7, ¶D,** as enacted by PL 2007, c. 464, §6, is amended to read:

D. Any responsible party may appeal a decision by the Department of Environmental Protection to the Kennebec County Superior Court pursuant to Title 5, section 9061 within 30 days of the date of the decision. An appeal under this paragraph is nontestimonial. The record consists solely of written materials reviewed by the Department of Environmental Protection and its decision. ~~The Superior Court shall issue its decision within 45 days of the date of filing of the appeal.~~

**Sec. A-10. 10 MRSA §1104, sub-§2, ¶B,** as enacted by PL 1987, c. 60, §1, is repealed and the following enacted in its place:

B. The action may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

**Sec. A-11. 13-C MRSA §1604, sub-§2,** as amended by PL 2007, c. 323, Pt. C, §38 and affected by Pt. G, §4, is further amended to read:

**2. Court order.** If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other record pursuant to this Act, the shareholder who complies with section 1602, subsections 3 and 4 may apply to the Superior Court in the county where the corporation's principal office is located or, if none in this State, in Kennebec County for an order to

permit inspection and copying of the records demanded. ~~The court shall dispose of an application under this subsection on an expedited basis.~~ An application under this subsection may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

**Sec. A-12. 13-C MRSA §1605, sub-§2,** as amended by PL 2007, c. 323, Pt. C, §39 and affected by Pt. G, §4, is further amended to read:

**2. Court order.** The Superior Court of the county where the corporation's principal office is located or, if there is no principal office in this State, of Kennebec County may order inspection and copying of the books, records and documents at the corporation's expense, upon application of a director who has been refused inspection rights under subsection 1, unless the corporation establishes that the director is not entitled to such inspection rights. ~~The court shall dispose of an application under this subsection on an expedited basis.~~ An application under this subsection may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

**Sec. A-13. 14 MRSA §556, first ¶,** as enacted by PL 1995, c. 413, §1, is amended to read:

When a moving party asserts that the civil claims, counterclaims or cross claims against the moving party are based on the moving party's exercise of the moving party's right of petition under the Constitution of the United States or the Constitution of Maine, the moving party may bring a special motion to dismiss. ~~The court shall advance the special motion so that it may be heard and determined with as little delay as possible.~~ The special motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The court shall grant the special motion, unless the party against whom the special motion is made shows that the moving party's exercise of its right of petition was devoid of any reasonable factual support or any arguable basis in law and that the moving party's acts caused actual injury to the responding party. In making its determination, the court shall consider the pleading and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

**Sec. A-14. 15 MRSA §5826, sub-§5,** as enacted by PL 1995, c. 421, §1, is amended to read:

**5. Ancillary hearing of 3rd-party interests.** A person not charged in the indictment may not intervene in the criminal action. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State shall provide written notice of its intent to dispose of the property to any person known to have alleged an interest in the property. The notice

may be by certified, return receipt mail or as otherwise ordered by the court. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Secretary of State, Bureau of Motor Vehicles. A person other than the defendant asserting a legal interest in the property, within 30 days of the date of receipt of the notice, may petition the court for a hearing to adjudicate the validity of any alleged interest in the property. The hearing must be held before the court without jury. The request for the hearing must be signed by the petitioner under penalty of perjury and must state the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim and the relief sought. Upon the filing of any petition for hearing, ~~the court shall schedule the hearing as soon as practicable~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require but in no event may the hearing be scheduled later than 6 months after the petition is filed or after the sentencing of any defendant convicted upon the same indictment. The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that:

A. The petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than in any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; or

B. The petitioner is a bona fide purchaser for value of the right, title or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section.

**Sec. A-15. 17 MRSA §1021, sub-§4, ¶C,** as enacted by PL 1987, c. 383, §4, is amended to read:

C. On 2 days' notice or such shorter period as the court may prescribe, the applicant who obtained the ex parte order or the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.

~~The court shall hear and determine the motion as expeditiously as, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice requires so require.~~

The moving party shall submit an affidavit setting forth specific facts to substantiate such findings as would serve to modify or dissolve the order. The opposing party shall have the burden of presenting evidence to substantiate the original findings.

**Sec. A-16. 17 MRSA §1021, sub-§5-A**, as amended by PL 2009, c. 573, §1, is further amended to read:

**5-A. Seizure by state humane agent or state veterinarian without court order.** A state humane agent or a state veterinarian who has reasonable cause to believe that a violation of section 1031 or 1032 has taken place or is taking place may take possession of and retain the cruelly treated animal. Upon taking possession of an animal under this section, the humane agent or the state veterinarian shall present the owner with a notice that:

- A. States the reason for seizure;
- B. Gives the name, address and phone number of the humane agent or the state veterinarian to contact for information regarding the animal; and
- C. Advises the owner of the ensuing court procedure.

If the owner can not be found, the humane agent or the state veterinarian shall send a copy of the notice to the owner at the owner's last known address by certified mail, return receipt requested. If the owner is not known or can not be located, the humane agent or the state veterinarian shall contact the animal shelter or shelters used by the municipality in which the animal was found. The humane agent or the state veterinarian shall provide the shelter with a description of the animal, the date of seizure and the name of a person to contact for more information.

Within 3 working days of possession of the animal, the humane agent or the state veterinarian shall apply to the court for a possession order. Upon good cause shown, the court shall expedite the case and schedule a prehearing conference to take place within 7 days of the seizure. The court shall set a hearing date, and ~~that the hearing date must be within 21 days of the date the animal was seized~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. The humane agent or the state veterinarian shall arrange care for the animal, including medical treatment, if necessary, pending the hearing.

The humane agent or the state veterinarian shall notify the owner, if located, of the time and place of the hearing. If the owner has not been located, the court shall order a notice to be published at least once in a newspaper of general circulation in the county where the animal was found stating the case and circumstances and giving 48 hours notice of the hearing.

It is the owner's responsibility at the hearing to show cause why the animal should not be seized permanently or disposed of humanely. If it appears at the hearing that the animal has been abandoned or cruelly treated by its owner, the court shall declare the animal forfeited and order its sale, adoption or donation or order the animal to be disposed of humanely if a veterinarian determines that the animal is diseased or disabled beyond recovery. In the case of an expedited hearing, the court shall issue a writ of possession or return the animal to its owner within 30 days of the seizure.

For an expedited hearing, the State, prior to the prehearing conference, shall submit all veterinary records, reports by investigating officers and other relevant records in the State's possession to the court and shall mail or deliver copies of these same reports and records to the owner of the animal.

All veterinary records, seizure reports prepared by humane agents, police reports, witness statements or other written documents are admissible as evidence when the authors of these documents are available for cross-examination at a possession hearing. Oral statements of a witness included in a police report are only admissible if the witness is present at the possession hearing.

**Sec. A-17. 17 MRSA §1027, sub-§2**, as enacted by PL 2007, c. 439, §36, is amended to read:

**2. Show cause hearing.** When an animal is lawfully seized or impounded pursuant to section 1021 or 1034, if the owner, custodian or person claiming an interest in the animal wishes to contest the order, the owner, custodian or person claiming an interest must petition the court for a show cause hearing. The petition must be filed within 10 days of the date the seizure occurred or the search warrant was executed. If the owner fails to petition the court for a hearing within 10 days, the animal is ordered forfeited to the State.

Upon petition by the owner, custodian or person claiming an interest in the animal in accordance with this subsection, the court shall hold a hearing ~~within 10 days of receipt of the petition.~~ The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Upon a showing of good cause, the court may extend the time needed to hold the hearing.

**Sec. A-18. 17 MRSA §2911, sub-§3**, as enacted by PL 1977, c. 410, §2, is amended to read:

**3. Procedure for adjudicating obscenity.** Whenever the Attorney General, or any district attorney, reasonably believes a person is disseminating to minors matter ~~which that~~ is obscene, ~~he~~ the Attorney General or district attorney may petition the Superior Court to declare the matter obscene pursuant to Title 14, sections 5951 to 5963. The Attorney General or

district attorney may join all persons ~~he~~ the Attorney General or district attorney reasonably believes to be disseminating that matter to minors as parties to the action. The hearing on such petition ~~shall be held not more than 10 days from the filing of the petition~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

- A. Trial on the issue of obscenity ~~shall~~ must be by jury.
- B. Intervention by others disseminating the same matter ~~shall~~ must be freely allowed.
- C. Determination by a court pursuant to this subsection that a matter is obscene ~~shall~~ does not bar relitigation of that issue in a criminal prosecution under this section.

**Sec. A-19. 17 MRSA §2913, sub-§3**, as enacted by PL 1983, c. 300, §7, is amended to read:

**3. Procedure for adjudicating obscenity.** Whenever the Attorney General, or any district attorney, reasonably believes a person is exhibiting at an outdoor motion picture theater a motion picture ~~which that~~ is obscene, he the Attorney General or district attorney may petition the Superior Court to declare the motion picture obscene pursuant to Title 14, sections 5951 to 5963. The Attorney General, or district attorney, may join all persons ~~he the Attorney General or district attorney~~ reasonably believes to be exhibiting that motion picture to minors as parties to the action. The hearing on that petition ~~shall be held not more than 10 days from the filing of the petition~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

- A. Trial on the issue of obscenity ~~shall~~ must be by jury.
- B. Intervention by others exhibiting the same motion picture ~~shall~~ must be freely allowed.
- C. Determination by a court, pursuant to this subsection, that a motion picture is obscene ~~shall~~ does not bar relitigation of that issue in a criminal prosecution under this section.

**Sec. A-20. 17-A MRSA §959, sub-§3, ¶D**, as enacted by PL 2001, c. 461, §2, is amended to read:

- D. A court shall ~~promptly, but not less than 2 weeks after notice,~~ hold a hearing on the petition after an answer is filed by a person served with notice under paragraph C. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law.

**Sec. A-21. 17-A MRSA §960, sub-§5**, as enacted by PL 2001, c. 461, §2, is amended to read:

**5.** A person not charged in an indictment under this section may not intervene in the criminal action. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State shall provide written notice of its intent to dispose of the property to any person known to have alleged an interest in the property. The notice may be by certified, return receipt mail or as otherwise ordered by the court. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Department of the Secretary of State, Bureau of Motor Vehicles. A person other than the defendant asserting a legal interest in the property within 30 days of the date of receipt of the notice may petition the court for a hearing to adjudicate the validity of any alleged interest in the property. The hearing must be held before the court without jury. The request for the hearing must be signed by the petitioner under penalty of perjury and must state the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim and the relief sought. ~~Upon the filing of any petition for hearing, the court shall schedule the hearing as soon as practicable, but in no event later than 6 months after the petition is filed or after the sentencing of any defendant convicted upon the same indictment.~~ The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that:

- A. The petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; and
- B. The petitioner is a bona fide purchaser for value of the right, title or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section.

**Sec. A-22. 22 MRSA §1558, sub-§3**, as enacted by PL 1995, c. 470, §9 and affected by §19 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. A-23. 22 MRSA §1559, sub-§3**, as enacted by PL 1995, c. 470, §9 and affected by §19 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. A-24. 22 MRSA §1602, sub-§4,** as amended by PL 2003, c. 673, Pt. AA, §1, is further amended to read:

**4. Permit denied; appeal.** An applicant who has been aggrieved by the department's decision to deny a permit under this chapter may file within 30 days of the notice of the denial a complaint with the District Court, as provided in Title 5, chapter 375. ~~Such an applicant must be granted a prompt A hearing before the District Court for reconsideration of the denial~~ may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

**Sec. A-25. 22 MRSA §7933, sub-§3, ¶B,** as enacted by PL 1983, c. 454, is amended to read:

B. A temporary receiver may be appointed with or without notice to the owner or licensee if it appears by verified complaint or affidavit that an emergency exists in the facility ~~which that~~ must be remedied immediately to insure the health, safety and welfare of the residents. The temporary appointment of a receiver without notice to the owner or licensee may be made only if the court is satisfied that the petitioner has made a diligent attempt to provide reasonable notice under the circumstances. Upon appointment of a temporary receiver, the department shall proceed forthwith to make service as provided in paragraph A, and a hearing ~~shall must~~ be held within 10 days, unless all parties agree to a later date. If the department does not proceed with the petition, the court shall dissolve the temporary receivership. On 2 days' notice to the receiver, all parties and the department, or on such shorter notice as the court may prescribe, the owner or licensee may appear and move the dissolution or modification of an order appointing a receiver ~~which that~~ has been entered without notice, and in that event ~~the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require~~ motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

**Sec. A-26. 26 MRSA §968, sub-§5, ¶F,** as amended by PL 1993, c. 90, §2, is further amended to read:

F. Either party may seek a review by the Superior Court of Kennebec County or of the county in which the prohibited practice is alleged to have occurred of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, if the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested. Upon the filing of the

complaint, the court shall set the complaint down for hearing ~~at the earliest possible time~~ and shall cause all interested parties and the board to be notified. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it determines just and proper; except that the board's decision is not stayed except when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained or that there is a substantial risk of danger to the public health or safety. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which must be held not less than 7 days after notice thereof,~~ the court may enforce, modify, enforce as so modified or set aside in whole or in part the decision of the board, except that the findings of the board on questions of fact are final unless shown to be clearly erroneous. Any appeal to the Law Court must be the same as an appeal from an interlocutory order under section 6.

**Sec. A-27. 26 MRSA §979-H, sub-§7,** as amended by PL 1993, c. 90, §5, is further amended to read:

**7. Court review.** Either party may seek a review by the Superior Court in Kennebec County of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, ~~provided if~~ the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested. Upon the filing of the complaint, the court shall set the complaint down for hearing ~~at the earliest possible time~~ and shall cause all interested parties and the board to be notified. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it determines just and proper; except that the board's decision or order is not stayed except when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained or that there is a substantial risk of danger to the public health or safety. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The rec-

ord must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which must be held not less than 7 days after notice thereof~~, the court may enforce, modify, enforce as so modified or set aside in whole or in part the decision of the board, except that the finding of the board on questions of fact is final unless shown to be clearly erroneous. Any appeal to the Law Court must be the same as an appeal from an interlocutory order under section 6.

**Sec. A-28. 26 MRSA §1029, sub-§7**, as corrected by RR 1993, c. 1, §69, is amended to read:

**7. Court review.** Either party may seek a review by the Superior Court in Kennebec County of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, ~~provided if~~ the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested. Upon the filing of the complaint, the court shall set the complaint down for hearing ~~at the earliest possible time~~ and shall cause all interested parties and the board to be notified. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it determines just and proper; except that the board's decision or order is not stayed except when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which must be held not less than 7 days after notice of the hearing~~, the court may enforce, modify, enforce as so modified, or set aside in whole or in part the decision of the board, except that the finding of the board on questions of fact is final unless shown to be clearly erroneous. Any appeal to the Law Court must be the same as an appeal from an interlocutory order under section 6.

**Sec. A-29. 26 MRSA §1289, sub-§7**, as amended by PL 1993, c. 90, §9, is further amended to read:

**7. Court review.** Either party may seek a review by the Superior Court in Kennebec County of a decision or order of the Maine Labor Relations Board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, ~~provided that~~ if the complaint ~~must be~~ is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board pro-

ceeding by certified mail, return receipt requested. Upon the filing of the complaint, the court shall set the complaint down for hearing ~~at the earliest possible time~~ and shall cause all interested parties and the board to be notified. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Pending review and upon application of any party in interest, the court may grant such temporary relief or restraining order and may impose such terms and conditions as it determines just and proper; except that the board's decision or order is not stayed except when it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained or that there is a substantial risk of danger to the public health, safety or welfare or interference with the exercise of the judicial power. The executive director shall forthwith file in the court the record in the proceeding certified by the executive director or a member of the board. The record must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which must be held not less than 7 days after notice thereof~~, the court may enforce, modify, enforce as so modified or set aside in whole or in part the decision of the board, except that the finding of the board on questions of fact is final unless shown to be clearly erroneous. Any appeal to the Law Court must be ~~expedited in the same manner~~ as an appeal from an interlocutory order under section 6.

**Sec. A-30. 26 MRSA §1329, sub-§6**, as enacted by PL 1997, c. 472, §1, is amended to read:

**6. Review.** Either party may seek a review by the Superior Court of a decision or order of the board by filing a complaint in accordance with the Maine Rules of Civil Procedure, Rule 80C, if the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested. Upon the filing of the complaint, the court shall schedule the hearing ~~at the earliest possible time~~ and notify all interested parties and the board. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. Pending review and upon application of an interested party, the court may grant temporary relief or a restraining order and impose terms and conditions that the court determines just and proper, except that the board's decision is not stayed unless it is clearly shown to the satisfaction of the court that substantial and irreparable injury will be sustained or that there is a substantial risk of danger to the public health or safety. The executive director shall immediately file in the court the record in the proceeding certified by the executive director or a member of the board. The record must include all documents filed in the proceeding and the transcript, if any. After hearing, ~~which must be held not less than 7 days after notice~~, the court may

enforce, modify, enforce as modified or set aside in whole or in part the decision of the board, except that the findings of the board on questions of fact are final unless shown to be clearly erroneous. An appeal to the Law Court must be the same as an appeal from an interlocutory order under section 6.

**Sec. A-31. 28-A MRSA §803, sub-§2-A**, as enacted by PL 1987, c. 342, §53 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. A-32. 28-A MRSA §805, sub-§3**, as enacted by PL 1987, c. 45, Pt. A, §4 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. A-33. 28-A MRSA §2221-A, sub-§4, ¶D**, as enacted by PL 1987, c. 342, §128, is amended to read:

D. The court shall ~~promptly, but not less than 2 weeks after notice,~~ hold a hearing on the petition. The hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law.

**Sec. A-34. 32 MRSA §1104, sub-§2**, as enacted by PL 2009, c. 112, Pt. A, §4, is amended to read:

**2. Order to correct deficiency; appeal.** Any person ordered by a state electrical inspector to correct an electrical deficiency or to vacate a building or structure may appeal the order to the Electricians' Examining Board by filing with that board within 30 days of receipt of the order a written notice of appeal. The board shall review that appeal and issue its written decision thereof within a reasonable time after receipt of the notice of appeal. If the board upholds the inspector's order, it shall prescribe the time period for the requisite correction specified in its written decision or the time within which that person must vacate the building or structure. The decision must be complied with unless appealed as provided. Any person ordered by the board to correct an electrical deficiency or to vacate a building or structure may appeal the order to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 by filing a petition for review within 48 hours of receipt of the order. ~~The court shall issue its written decision within 20 days after receipt of the petition for review.~~ The petition for review may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

**Sec. A-35. 34-B MRSA §13003, sub-§3, ¶B**, as enacted by PL 1997, c. 610, §3, is amended to read:

B. A temporary receiver may be appointed with or without notice to the owner or licensee if it appears by verified complaint or affidavit that an emergency exists in the facility or provider that must be remedied immediately to ensure the health, safety and welfare of the clients or residents. The appointment of a temporary receiver without notice to the owner or licensee may be made only if the court is satisfied that the petitioner has made a diligent attempt to provide reasonable notice under the circumstances. Upon appointment of a temporary receiver, the department shall proceed to make service as provided in paragraph A, and a hearing must be held within 10 days, unless all parties agree to a later date. If the department does not proceed with the petition, the court shall dissolve the receivership. On 2 days' notice to the temporary receiver, all parties and the department, or on such shorter notice as the court may prescribe, the owner or licensee may appear and move the dissolution or modification of an order appointing a temporary receiver that has been entered without notice, and in that event ~~the court shall proceed to hear and determine the motion as expeditiously as possible~~ the motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

**Sec. A-36. 38 MRSA §1022, first ¶**, as amended by PL 1999, c. 215, §1, is further amended to read:

Any person intending to build or extend any wharf, fish weir or trap in tidewaters, within the limits of any city or town, shall apply in writing to the municipal officers of the city or town, stating the location of the weir, the boundaries of the cove in which the weir will be constructed as identified on a map prepared by the Commissioner of Marine Resources, limits and boundaries, as nearly as may be, of the intended erection or extension, and asking license for the intended erection or extension. The applicant must notify all parties that may be directly affected by the proposed construction. Upon receiving an application, the officers shall give at least 3 days' public notice of the application in a newspaper, published in the town, or, if there is no newspaper published in the town, in a newspaper published within the county, and shall designate in the notice a day and time on which they or their designee will meet on or near the premises described, to examine the same and hear all parties interested. If, following such examination and hearing of all parties interested, the officers decide that such erection or extension would not be an obstruction to navigation or injury to the rights of others, and determine to allow the same, they shall issue a license under their hands to the applicant, authorizing the applicant to make such an erection or extension, and to maintain

the same within the limits mentioned in such license. The applicant for license to build or extend a fish weir or trap shall first give bond to the town, with sureties, in the sum of \$5,000, conditioned that upon the termination of such license the applicant ~~shall remove~~ removes all stakes and brush from the location therein described. The municipal officers shall, within 10 days after the date of hearing, give written notice by mail of their decision to all parties interested. Any person aggrieved by the decision of the municipal officers, in either granting or refusing to grant a license as provided, may appeal to the Superior Court within 10 days after the mailing of such written notice. The court shall set a time and place for hearing and give notice thereof in the same manner as provided for a hearing before the municipal officers. The decision of the court must be communicated ~~within 10 days after the date of hearing~~ to the appellant and to the municipal officers of the town in which the proposed wharf, weir or trap is to be located. This decision is binding on the municipal officers, who shall issue a license, if so directed by the decision of the court, within 3 days after the decision has been communicated to them. If the appeal is sustained by the court in whole or in part, the appellant will have costs against the appellee. If the appeal is not so sustained, the appellee will have costs against the appellant. If any owner to whom a license has been issued, or the owner's heirs or assigns, fail to remove all stakes and brush within a period of one year after the termination of the license, as provided in section 1023, any person can remove the same without charge against the owner or the owner's heirs or assigns.

### PART B

**Sec. B-1. 29-A MRSA §2603**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is repealed.

### PART C

**Sec. C-1. 5 MRSA §4651, sub-§2, ¶A**, as enacted by PL 1995, c. 650, §1, is amended to read:

A. Three or more acts of intimidation, confrontation, physical force or the threat of physical force directed against any person, family or business that are made with the intention of causing fear, intimidation or damage to personal property and that do in fact cause fear, intimidation or damage to personal property; or

**Sec. C-2. 5 MRSA §4651, sub-§2, ¶B**, as enacted by PL 1995, c. 650, §1, is repealed.

**Sec. C-3. 5 MRSA §4653, sub-§1**, as corrected by RR 2003, c. 2, §7, is amended to read:

**1. Filing.** A person who has been a victim of harassment, including a business, may seek relief by filing ~~a sworn complaint~~ in an appropriate court ~~alleging that harassment~~.

A. A sworn complaint alleging harassment; and

B. If the alleged harassment does not meet the definition in section 4651, subsection 2, paragraph C or is not related to an allegation of domestic violence, violence against a dating partner, sexual assault or stalking, a copy of a notice to stop harassing the plaintiff issued to the defendant pursuant to Title 17-A, section 506-A, subsection 1, paragraph A, subparagraph (1), division (a) or a statement of good cause why such a notice was not sought or obtained.

**Sec. C-4. 5 MRSA §4654, sub-§2, ¶A**, as amended by PL 2003, c. 658, §5, is further amended to read:

A. It appears clearly from a verified complaint or an affidavit accompanying the complaint that:

(1) Before the defendant or the defendant's attorney can be heard, the plaintiff or the plaintiff's employees may be in immediate and present danger of physical abuse from the defendant or in immediate and present danger of suffering extreme emotional distress as a result of the defendant's conduct, or the plaintiff's business property is in immediate and present danger of suffering substantial damage as a result of the defendant's actions;

~~(2) Either the plaintiff has or has not contacted any law enforcement officials concerning the alleged harassment; and~~

(2-A) If the alleged harassment does not meet the definition in section 4651, subsection 2, paragraph C or is not related to an allegation of domestic violence, violence against a dating partner, sexual assault or stalking, the plaintiff has obtained a copy of a notification issued against the other person as described in Title 17-A, section 506-A, subsection 1, paragraph A, subparagraph (1), division (a) or the plaintiff has filed a statement of good cause why such relief was not sought or why such a notice was not issued; and

(3) The plaintiff has provided sufficient information to substantiate the alleged harassment; and

**Sec. C-5. 5 MRSA §4654, sub-§2, ¶B**, as amended by PL 1989, c. 164, is repealed.

**Sec. C-6. 5 MRSA §4654, sub-§6**, as enacted by PL 1987, c. 515, §1, is amended to read:

**6. Dissolution or modification.** Notwithstanding any statutory provision to the contrary, on 2 days' notice to the plaintiff or on such shorter notice as the court may order, a person who is subject to any order may appear and move the dissolution or modification of the order and in that event the court shall proceed to

hear and determine the motion ~~expeditiously~~. The hearing on the motion may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. At that hearing, the plaintiff ~~shall have~~ has the burden of justifying any finding in the ex parte order ~~which that~~ the defendant has challenged by affidavit. Nothing in this section may be construed to abolish or limit any means, otherwise available by law, for obtaining dissolution, modification or discharge of an order.

See title page for effective date.

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## CHAPTER 560

### S.P. 615 - L.D. 1778

#### An Act Relating to the Governance of the Maine State Housing Authority

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

**Sec. 1. 30-A MRSA §4723**, as amended by PL 2007, c. 101, §1, is further amended to read:

**§4723. Appointment, qualifications, tenure and meetings of commissioners and directors**

**1. Municipality.** The following provisions apply to municipal housing authorities.

A. Each authority shall appoint 7 commissioners. No commissioner may be appointed until the authority is authorized to function as provided in section 4721. In the case of a city having a mayor-council form of government, the mayor shall appoint the commissioners with the advice and consent of the council. In the case of a city having a manager-council form of government, the council shall appoint the commissioners. In the case of a town, the municipal officers shall appoint the commissioners.

Any person who resides within the authority's boundaries or area, and who is otherwise eligible for appointment under this chapter, may be appointed as a commissioner of the authority. This section does not prevent a commissioner from concurrently serving as a commissioner on a renewal authority established by any city with a population of 20,000 or more.

The commissioners who are initially appointed under this section serve for terms of one, 2, 3, 4 and 5 years, respectively, from the date of their appointment. Thereafter, the commissioners are appointed for terms of 5 years, except that all vacancies must be filled for the unexpired terms. All subsequent appointments and appointments to

fill a vacancy must be made as provided in this subsection.

(1) In a municipality with housing that is subsidized or assisted by programs of the United States Department of Housing and Urban Development, at least 2 of the commissioners must be residents of that housing. When tenant associations exist in the housing, the appointing authority shall give priority consideration to nominations made by the associations. The first commissioner appointed to an authority, who is a resident of subsidized or assisted housing, serves for a 4-year term from the date of appointment. Thereafter, the commissioner must be appointed as provided in this subsection.

(2) A certificate of the appointment or reappointment of any commissioner must be filed with the authority. This certificate is conclusive evidence of the due and proper appointment of the commissioner.

B. A commissioner shall receive no compensation for services but is entitled to any necessary expenses, including travel expenses, incurred in the discharge of duties. Each commissioner shall hold office until a successor has been appointed and has qualified.

C. Each authority shall elect a ~~chairman~~ chair and ~~vice-chairman~~ vice-chair from among the commissioners. An authority may employ a secretary, who ~~shall be~~ is executive director, and technical experts and any other officers, agents and employees that it requires and shall determine their qualifications, duties and compensation. An authority may employ its own counsel and legal staff. It may delegate to its agents or employees any powers or duties that it considers proper.

D. The powers of an authority are vested in its commissioners. Meetings of the commissioners may be held anywhere within the area of operation of the authority or within any additional area where the authority is authorized to undertake a project. Four commissioners constitute a quorum of an authority for the purpose of conducting its business, exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. The authority may take action upon the vote of a majority of the commissioners present, unless its bylaws require a larger number.

**2. State.** The following provisions apply to the state housing authority.

B. The Maine State Housing Authority, as authorized by Title 5, chapter 379, must have 10 commissioners, 8 of whom must be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdic-

tion over economic development and to confirmation by the Legislature. The 9th commissioner is the Treasurer of State who serves as an ex officio voting member. The Treasurer of State may designate the Deputy Treasurer of State to serve in place of the Treasurer of State. The 10th commissioner is the director of the Maine State Housing Authority who serves as an ex officio nonvoting member. At least 3 gubernatorial appointments must include a representative of bankers, a representative of elderly people and a resident of housing that is subsidized or assisted by programs of the United States Department of Housing and Urban Development or of the Maine State Housing Authority. In appointing the resident, the Governor shall give priority consideration to nominations that may be made by tenant associations established in the State. Of the 5 remaining gubernatorial appointments, the Governor shall give priority to a representative involved in the housing business and a representative of people with disabilities. The powers of the Maine State Housing Authority are vested in the commissioners. The commissioners may delegate such powers and duties to the director of the Maine State Housing Authority as they determine appropriate.

The Governor shall appoint the chair of the commissioners from among the 8 gubernatorial appointments. The chair serves as a nonvoting member, except that the chair may vote only to break a tie when the chair's vote will affect the result. The commissioners shall elect a vice-chair of the commissioners from among their number. ~~The commissioners of the Maine State Housing Authority shall establish and revise from time to time policies of the Maine State Housing Authority relating to the following particular matters:~~

- ~~(1) Standards of issuing, servicing and redeeming bonds;~~
- ~~(2) Purchase, sale or commitment to purchase mortgages or notes;~~
- ~~(3) Initiating project construction and accepting properly completed facilities;~~
- ~~(4) Setting and establishing selection and evaluation standards, criteria and procedures under which it will purchase, sell or agree to purchase loans, notes or obligations, having regard among other things to:
 
  - ~~(a) Property values;~~
  - ~~(b) Local economic conditions and expectancy;~~
  - ~~(c) Credit and employment; and~~
  - ~~(d) Local housing conditions and needs and the availability of credit resources to meet those needs relative to similar or~~~~

~~competing conditions and needs in other localities in the State;~~

- ~~(5) Setting and establishing procedures for the servicing of loans, notes and obligations acquired by it, including the allowance of servicing fees to participating lenders to whom the Maine State Housing Authority may entrust such servicing;~~
- ~~(6) Setting and establishing procedures for the collection of money due from persons liable for payment, as to any loan, note or obligation held by the Maine State Housing Authority, by subrogation or otherwise, and to initiate and maintain any action at law or in equity, including foreclosure proceedings, to enforce payment;~~
- ~~(7) Setting and establishing procedures for the orderly liquidation and disposition of any property acquired by the Maine State Housing Authority through foreclosure or otherwise in full or partial satisfaction of any debt or obligation held by it; and~~
- ~~(8) Establishing and maintaining out of income or otherwise any reserves that the Maine State Housing Authority from time to time determines to be necessary and prudent in addition to those specifically required.~~

Following reasonable notice to each commissioner, 5 commissioners of the Maine State Housing Authority constitute a quorum for the purpose of conducting its business, exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the commissioners upon a vote of a majority of the commissioners present, unless otherwise specified in law or required by its bylaws ~~require a larger number.~~

C. The Maine State Housing Authority ~~shall~~ must have a director, who must be a person qualified by training and experience to perform the duties of the office. The Governor shall appoint the director of the Maine State Housing Authority, subject to review by the joint standing committee of the Legislature having jurisdiction over economic development, and to confirmation by the Legislature.

- (1) The director is the chief administrative officer of the Maine State Housing Authority shall serve on a full time basis for a 4 year term of office, and until a successor has been appointed and qualified. The Governor commissioners shall establish the rate and amount of compensation of the director. The commissioners are responsible for the performance review and termination of the director. Any decision to terminate the director

must be made by an affirmative vote of at least 5 commissioners.

~~(2) The powers and duties of the Maine State Housing Authority, except those listed in paragraph B, are vested solely in the director of the Maine State Housing Authority. The director of the Maine State Housing Authority or a representative shall attend all meetings of the advisory board or of the commissioners.~~

(3) The director of the Maine State Housing Authority shall supervise the administrative affairs and technical activities of the Maine State Housing Authority in accordance with the rules and policies established by the commissioners. The director of the Maine State Housing Authority may act in all personnel matters and may employ technical or legal experts and any other officers, agents and employees that the director requires, and shall determine their qualifications, duties and compensation. The director may delegate to the employees and agents any powers and duties that the director considers proper.

D. Any person who, at the time of appointment, is a resident of the State, may serve as a commissioner, except that the director need not be a resident of the State before being appointed.

(1) Each commissioner, except for the director and the Treasurer of State, serves a 4-year term beginning with the expiration of the term of that person's predecessor, except that a vacancy occurring in a position before the normal expiration of the appointment must be filled as soon as practicable by a new gubernatorial appointee who serves for the remainder of the unexpired term. Each commissioner continues to hold office after the term expires until a successor is appointed. In any instance in which more than one commissioner is serving beyond the original term, any new appointee is deemed to succeed the commissioner whose term expired first.

(2) The Secretary of State shall prepare a certificate evidencing the appointment of each commissioner. An original of this certificate must be provided to the appointee. One authenticated copy must be retained by the Maine State Housing Authority and one by the Secretary of State. An authenticated certificate of appointment is conclusive evidence of the appointment.

E. The director is a full-time employee of the authority, but may receive fees or honoraria for services provided to others not in conflict with full-

time duties and not performed during time for which the director is receiving compensation from the Maine State Housing Authority. In addition to any authorized compensation, the director is entitled to any employee benefits that are available to other employees of the Maine State Housing Authority, including, but not limited to, authority contributions to any retirement plan, insurance plan, deferred compensation plan or other similar benefits. Each commissioner ~~and advisory board member~~ is entitled to compensation according to the provisions of Title 5, chapter 379, except notwithstanding Title 5, section 12003-A, subsection 4, authorized expenses incurred by a state employee, or designee of that state employee, serving in an ex officio capacity as a commissioner must be paid from the budget of the authority.

**Sec. 2. 30-A MRS §4725**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**§4725. Removal of commissioners**

A commissioner ~~or director~~ may be removed from office for inefficiency, neglect of duty or misconduct in office after hearing by the legislative body of a city, the selectmen of a town, or ~~the Governor~~, in the case of the Maine State Housing Authority, the Governor. The commissioner ~~or director~~ must be given a copy of the charges at least 10 days before the hearing and must be given an opportunity to be heard in person or to be represented by counsel. If a commissioner ~~or a director~~ is removed, a record of the proceedings, together with the charges and the findings on the charges, ~~shall~~ must be filed in the office of the clerk or, in the case of the Maine State Housing Authority, in the office of the Secretary of State. This section does not apply to the director of the Maine State Housing Authority, who may be removed by the commissioners pursuant to section 4723, subsection 2, paragraph C.

**Sec. 3. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 30-A, section 4723, subsection 2, paragraph D, of the 3 commissioners serving on the Maine State Housing Authority whose terms are scheduled to expire on September 30, 2015, the term of one of those commissioners, determined by the Governor, expires on September 30, 2016, the term of another of these commissioners, determined by the Governor, expires on September 30, 2017 and the term of the 3rd commissioner, determined by the Governor, expires on September 30, 2018.

See title page for effective date.

**CHAPTER 561**

**H.P. 1310 - L.D. 1785**

**An Act To Repeal the Requirement That Canadian Big Game or Wild Turkey Hunters Be Accompanied by Guides Licensed in the State and To Clarify the Laws Concerning the Civil Violation of Trespass by Motor Vehicle**

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

**Sec. 1. 12 MRSA §11226-A**, as enacted by PL 2009, c. 390, §2, is repealed.

**Sec. 2. 17 MRSA §3853-C**, as enacted by PL 1981, c. 251, is repealed and the following enacted in its place:

**§3853-C. Trespass by motor vehicle; civil violation**

**1. Violation.** A person may not park a motor vehicle or allow a motor vehicle under that person's control to remain parked:

A. In a private drive or private way in a manner that blocks or interferes with the free passage of other vehicles without the permission of the owner of that private drive or way; or

B. On a public highway in a manner that blocks the entrance to a private driveway, gate or barway.

**2. Penalty.** A person who violates subsection 1 commits a civil violation for which a fine of not less than \$500 must be adjudged.

**3. Registered owner's liability for vehicle.** There is a rebuttable presumption that a registered owner of a vehicle involved in a violation of subsection 1 has that vehicle under that person's control.

See title page for effective date.

**CHAPTER 562**

**H.P. 1359 - L.D. 1837**

**An Act To Authorize the Establishment of Pilot Projects for Community Paramedicine**

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

**Sec. 1. 32 MRSA §84, sub-§4** is enacted to read:

**4. Establishment of community paramedicine pilot projects.** Using the same process established by the board in rule for using pilot projects to evaluate the

workability and appropriateness of incorporating a particular emergency medical treatment technique or a type of equipment into any licensure level, the board may establish up to 12 pilot projects for the purpose of developing and evaluating a community paramedicine program. A pilot project established pursuant to this subsection may not exceed 3 years in duration.

As used in this subsection, "community paramedicine" means the practice by an emergency medical services provider primarily in an out-of-hospital setting of providing episodic patient evaluation, advice and treatment directed at preventing or improving a particular medical condition, within the scope of practice of the emergency medical services provider as specifically requested or directed by a physician.

The board shall establish the requirements and application and approval process of pilot projects established pursuant to this subsection. At a minimum, an emergency medical services provider, including, but not limited to, an ambulance service or nontransporting emergency medical service, that conducts a pilot project shall work with an identified primary care medical director, have an emergency medical services medical director and collect and submit data and written reports to the board, in accordance with requirements established by the board.

On or before January 30th of each year, the board shall submit a written report to the joint standing committees of the Legislature having jurisdiction over criminal justice and public safety matters and labor, commerce, research and economic development matters that summarizes the work and progress during the previous calendar year of each pilot project authorized pursuant to this subsection.

See title page for effective date.

**CHAPTER 563**

**H.P. 256 - L.D. 323**

**An Act To Implement a Coordinated Strategy To Attract New Businesses, Expand Existing Businesses and Develop a Consistent and Recognizable Maine Brand**

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

**Sec. 1. 5 MRSA §12004-I, sub-§87**, as corrected by RR 1995, c. 2, §10, is repealed.

**Sec. 2. 5 MRSA §13056-A**, as enacted by PL 2007, c. 434, §1, is amended to read:

**§13056-A. Comprehensive evaluation of state investments in economic development**

By ~~November 1, 2007~~ February 1, 2013, the commissioner shall develop and submit to the Governor and the Legislature a plan for the comprehensive evaluation of state investments in economic development. Beginning February 1, ~~2009~~ 2014, the commissioner shall submit ~~an annual~~ a biennial comprehensive evaluation of state investments in economic development, not to include programs evaluated pursuant to section 13107 or those independent evaluations required by federal programs, to the Governor and the Legislature. The evaluation must:

**1. Outcome measures.** Establish and report on outcome measures considered appropriate by public and private practitioners inside and outside of this State in the field of economic development, including measures that assess the overall economic performance of the programs to be evaluated under subsection 1-A, as demonstrated by the number of jobs created and wages paid that are attributable to the program, and any state revenues that are attributable to the activities of the program;

**1-A. Programs identified for evaluation.** Include, but is not limited to, the review of the following programs: the Maine Employment Tax Increment Financing Program, pursuant to Title 36, chapter 917; the Governor's Training Initiative Program, pursuant to Title 26, section 2031; the Loring Development Authority of Maine, pursuant to Title 5, section 13080; the visual media production certification program, pursuant to Title 5, section 13090-L; the promotion and marketing of state products through the department, pursuant to Title 5, section 13062; the Maine International Trade Center, pursuant to Title 10, section 945; municipal tax increment financing, pursuant to Title 30-A, section 5227; and the pine tree development zone program, pursuant to Title 30-A, section 5250-J;

**2. Reviewers.** Use independent, nonpartisan reviewers to assess the effect of economic development activities on the competitiveness of industry sectors in this State; and

**3. Recommendations.** Include recommendations to the Legislature on existing and proposed state-supported economic development programs and activities to affect economic development in this State.

**Sec. 3. 5 MRSA §13056-C, sub-§3,** as amended by PL 2009, c. 337, §2, is further amended to read:

**3. Payments to fund.** Notwithstanding section 1585 or any other provision of law, the department shall assess agencies or private entities that receive General Fund appropriations or general obligation bonds for economic development an amount for contribution to the fund that is not to exceed ~~0.08%~~ 0.8%

of General Fund appropriations received by or general obligation bonds issued to an agency or entity for economic development efforts. Private entities that receive funds from general obligation bonds for economic development efforts shall pay to the Treasurer of State in the fiscal year in which the general obligation bond was issued an assessment amount determined by the department that is not to exceed ~~0.08%~~ 0.8% of the proceeds from the bond issue in any fiscal year, which payment must be made from available resources other than bond proceeds. Only those programs that receive \$250,000 or more in economic development appropriations in any fiscal year or those entities that receive funds from a general obligation bond issue of \$250,000 or more for economic development efforts in any fiscal year, as identified and certified by the department and the Office of Fiscal and Program Review, may be assessed pursuant to this subsection. The department shall provide to each agency or private entity an annual budget for the fund and a detailed account of each institution's required assessment. Total payments made pursuant to this section may not exceed \$200,000 in any fiscal year.

**Sec. 4. 5 MRSA §13090-C, sub-§1,** as amended by PL 2003, c. 198, §6, is further amended to read:

**1. Tourism; establishment.** The Office of Tourism shall administer a program to support and expand the tourism industry and promote the State as a tourist destination. The Director of the Office of Tourism shall administer the office in accordance with the policies of the commissioner and the provisions of this article. The office includes the ~~Maine Tourism Commission and the~~ Maine State Film Commission.

**Sec. 5. 5 MRSA §13090-E, sub-§§1 and 2,** as amended by PL 2003, c. 198, §9, are further amended to read:

**1. Development.** The Office of Tourism with input from the tourism industry shall develop a 5-year marketing and development strategy for state tourism growth that maximizes the effectiveness of state and private sector contributions in attracting visitors to the State and increasing tourism-based revenues. The strategy must incorporate components of direct marketing in maintenance and primary markets, matching grants programs, trade markets, regional development and research.

**2. Administration.** The Office of Tourism shall administer the components of the strategy after development. Administration includes development of new markets, creation of an image of the State to entice visitor inquiries and provision of appropriate technical assistance and response mechanisms. The Office of Tourism shall support staffing of the visitor information centers and fulfill tourism information requests and shall work in partnership with the tourism industry in the State in administering the strategy. The Office

of Tourism shall seek direct input and consultation from the tourism industry on the Office of Tourism's marketing and promotional plans and collaborate with tourism regions and industry sectors to accomplish the goals identified in the marketing and promotional plans and the marketing and development strategy required under subsection 1, including, but not limited to, the outdoor recreation industry, the lodging industry, the restaurant industry, representatives of large landowners, campground organizations, the transportation industry, the retail industry, cultural organizations, tourism destination marketing organizations, private businesses, statewide tourism associations and nonprofit organizations. The Office of Tourism shall seek tourism industry input in other areas the commissioner considers appropriate and necessary to ensure the successful implementation of this section. The Office of Tourism shall provide a quarterly presentation of its activities under this section beginning January 1, 2013 to tourism industry stakeholders and provide an annual report to the Governor and the Legislature summarizing the goals and achievements of the Office of Tourism.

**Sec. 6. 5 MRSA §13090-F**, as amended by PL 2009, c. 211, Pt. B, §2, is repealed.

**Sec. 7. 5 MRSA §13090-G, sub-§4**, as amended by PL 2003, c. 198, §12, is further amended to read:

**4. Administration.** The Office of Tourism in consultation with the tourism industry shall administer the Travel Promotion Matching Fund Program with such flexibility as to bring about the most effective and economical travel promotion program possible. Applications from all regions of the State must be equally considered. The Maine Tourism Commission Office of Tourism shall recommend consult with the tourism industry in the development of rules and procedures necessary and appropriate to the proper operation of the Travel Promotion Matching Fund Program. These rules must establish eligibility requirements, allocation formulas, application procedures and criteria subject to the final approval of the commissioner. The Maine Tourism Commission Office of Tourism, in consultation with the tourism industry, shall establish a schedule and process for review and approval of grant applications and make timely recommendations of grant awards to the Office of Tourism. Grants recommended by the Maine Tourism Commission to the Office of Tourism must be approved by the Director of the Office of Tourism prior to any disbursement of funds.

**Sec. 8. 5 MRSA §13107, first ¶**, as amended by PL 2007, c. 420, §4, is further amended to read:

The office shall develop and submit to the Governor and the Legislature by July 1, ~~2006~~ 2012 and on July 1st every ~~5~~ 6 years thereafter an evaluation of state investments in research and development, as well

as ~~an annual~~ a progress report from the office and the independent reviewers under subsection 2 beginning on February 1, ~~2008~~ 2014 and on February 1st every ~~even-numbered~~ year thereafter. The evaluation must:

**Sec. 9. 5 MRSA §13107, last ¶**, as enacted by PL 2007, c. 420, §4, is amended to read:

By February 1, ~~2008~~ 2014 and by February 1st every ~~even-numbered~~ year thereafter, the office and the independent reviewers under subsection 2 shall submit to the Governor and the Legislature a progress report related to the ~~5-year~~ 6-year evaluation required under this section. The independent reviewers must incorporate the goals and objectives described in the State's innovation economy action plan, as described in Title 10, chapter 107-D, in their analysis of the success of the State's investments in research and development.

**Sec. 10. 5 MRSA §13120-A, first ¶**, as amended by PL 2003, c. 281, §1, is further amended to read:

The Maine Rural Development Authority, as established by section 12004-F, subsection 18 and referred to in this subchapter as the "authority," is a body both corporate and politic and a public instrumentality of the State established for the purpose of providing loans to communities for the development of commercial facilities on a speculative basis and for serving as lender or investor in the acquisition, development, redevelopment and sale of commercial facilities in areas where economic needs are not supported by private investment. The authority may also provide loans to businesses that currently do not own real estate and that are not supported by private investment.

**Sec. 11. 5 MRSA §13120-P, sub-§2**, as amended by PL 2005, c. 425, §18, is further amended to read:

**2. Redevelopment of property.** Except as provided in section 13120-Q, the authority may undertake the redevelopment of property as an owner or lender for subsequent use and sale under the following conditions:

- A. The property has been previously and materially used as a commercial facility or the property is suitable for adaptive use as a commercial or industrial facility;
- B. The property is currently not in productive commercial use or is expected to be taken out of productive commercial use within the immediate future;
- C. The property has not been placed under a purchase option or contract;
- D. The authority, using due diligence, has determined that:

(1) There is a reasonable expectation that the property will become financially viable following its redevelopment; and

(2) The economic benefits, including the restoration of employment opportunities, expected to result from the redevelopment justify the risks associated with the authority's equity, security or other interest in the property; and

E. The municipality, local development corporation or another entity will provide funding for the project equal to 25% of the funding that the authority provides to the project.

The authority may finance undeveloped land or personal property only if the undeveloped land or personal property is part of the overall redevelopment project. The authority may take custody of any machinery and equipment held as collateral for a loan issued to the commercial facility being redeveloped.

**Sec. 12. 5 MRSA §13120-P, sub-§3,** as amended by PL 2005, c. 425, §18, is further amended to read:

**3. Development of property.** Except as provided in section 13120-Q, the authority may undertake the development of property as an owner or lender for subsequent use and sale under the following conditions:

A. The property consists of real estate that is zoned, sited or otherwise suitable for development as a commercial facility;

B. The property is currently not in productive commercial use;

C. The property has not been placed under a purchase option or contract;

D. The authority, using due diligence, has determined that:

(1) There is a reasonable expectation that the property will become financially viable following its development;

(2) The development of the property will create employment opportunities and other economic benefits within the region; and

(3) The economic benefits expected to result from the development justify the risks associated with the authority's equity, loan or other interest in the property; and

E. The municipality, local development corporation or another entity will provide funding for the project equal to 25% of the funding that the authority provides to the project.

The authority may finance undeveloped land or personal property only if the undeveloped land or per-

sonal property is part of the overall development project. The authority may take custody of any machinery and equipment held as collateral for a loan issued to the commercial facility being redeveloped.

**Sec. 13. 36 MRSA §5219-GG, sub-§1, ¶G,** as enacted by PL 2011, c. 380, Pt. Q, §6 and affected by §7, is amended to read:

G. "Qualified active low-income community business" has the same meaning as in the Code, Section 45D; and includes any entity making an investment under this section if, for the most recent calendar year ending prior to the date of the investment:

(1) At least 50% of the total gross income of the entity was derived from the active conduct of business activity of the entity within any municipality where the average annual unemployment rate for that year was higher than the state average unemployment rate;

(2) A substantial portion of the use of the tangible property of the entity was within any location of the State where the average annual unemployment rate for that year was higher than the state average unemployment rate; or

(3) A substantial portion of the services performed by the entity by its employees was performed in a municipality where the average annual unemployment rate for that year was higher than the state average unemployment rate.

**Sec. 14. Commissioner of Economic and Community Development to convene meetings to streamline marketing efforts.** Beginning August 1, 2012, the Commissioner of Economic and Community Development shall convene at least 5 meetings by December 15, 2012 with marketing personnel from the following state agencies: the Department of Agriculture, Food and Rural Resources; the Department of Labor; the Department of Environmental Protection; the Department of Education; the Department of Conservation; the Department of Inland Fisheries and Wildlife; the Department of Marine Resources; and the Department of Transportation. The Commissioner of Economic and Community Development shall gather information at the meetings regarding the marketing efforts, budgets and strategies used by these agencies in order to determine if the State can market its products and services more efficiently. The Commissioner of Economic and Community Development shall provide a report with recommendations for streamlining the State's marketing efforts to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters no later than February 1, 2013. The joint standing committee of the Legislature having jurisdiction over labor,

commerce, research and economic development matters is authorized to report out a bill to implement the recommendations to the First Regular Session of the 126th Legislature.

See title page for effective date.

**CHAPTER 564**

**H.P. 1016 - L.D. 1377**

**An Act To Adopt the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act**

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

**Sec. 1. 18-A MRSA Art. 5, Pt. 5-A** is enacted to read:

**PART 5-A**

**UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT**

**SUBPART 1**

**GENERAL PROVISIONS**

**§5-511. Short title**

This Part may be known and cited as "the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act."

**§5-512. Definitions**

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

(a). "Adult" means an individual who has attained 18 years of age.

(b). "Conservator" means a person appointed by the court to administer the property of an adult, including a person appointed under Part 4.

(c). "Guardian" means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under Part 3.

(d). "Guardianship order" means an order appointing a guardian.

(e). "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.

(f). "Incapacitated person" means an adult for whom a guardian has been appointed or an adult who is an incapacitated person within the meaning of section 5-101, subsection (1).

(g). "Party" means an interested person within the meaning of section 1-201, subsection (20), including the respondent, petitioner, guardian, conservator or any other person allowed by the court to participate in a guardianship or protective proceeding.

(h). "Person," except in the term "incapacitated person" or "protected person," means: an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; public corporation; government or governmental subdivision, agency or instrumentality; or any other legal or commercial entity.

(i). "Protected person" means an adult for whom a protective order has been issued.

(j). "Protective order" means an order appointing a conservator or other order related to management or disposition of an adult's property.

(k). "Protective proceeding" means a judicial proceeding in which a protective order is sought or has been issued.

(l). "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(m). "Respondent" means an adult for whom a protective order or the appointment of a guardian is sought.

(n). "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

**§5-513. International application of Part**

A court of this State may treat a foreign country as if it were a state for the purpose of applying this subpart and subparts 2, 3 and 5.

**§5-514. Communication between courts**

(a). A court of this State may communicate with a court in another state concerning a proceeding arising under this Part. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection (b), the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

(b). Courts may communicate concerning schedules, calendars, court records and other administrative matters without making a record.

**§5-515. Cooperation between courts**

(a). In a guardianship or protective proceeding in this State, a court of this State may request the appropriate court of another state to do any of the following:

- (1). Hold an evidentiary hearing;

(2). Order a person in that state to produce evidence or give testimony pursuant to procedures of that state;

(3). Order that an evaluation or assessment be made of the respondent;

(4). Order any appropriate investigation of a person involved in a proceeding;

(5). Forward to the court of this State a certified copy of the transcript or other record of a hearing under paragraph (1) or any other proceeding, any evidence otherwise produced under paragraph (2) and any evaluation or assessment prepared in compliance with an order under paragraph (3) or (4);

(6). Issue any order necessary to ensure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated person or protected person;

(7). Issue an order authorizing the release of medical, financial, criminal or other relevant information in that state, including protected health information as defined in 45 Code of Federal Regulations, Section 160.103, as amended.

(b). If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection (a), a court of this State has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

#### **§5-516. Taking testimony in another state**

(a). In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

(b). In a guardianship or protective proceeding, a court in this State may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this State shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

(c). Documentary evidence transmitted from another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.

## **SUBPART 2** **JURISDICTION**

### **§5-521. Definitions; significant connection factors**

(a). As used in this subpart, unless the context otherwise indicates, the following terms have the following meanings.

(1). "Emergency" means a circumstance that likely will result in substantial harm to a respondent's health, safety or welfare, and for which the appointment of a guardian is necessary.

(2). "Home state" means the state in which the respondent was physically present, including any period of temporary absence, for at least 6 consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian or, if none, the state in which the respondent was physically present, including any period of temporary absence, for at least 6 consecutive months ending within the 6 months prior to the filing of the petition.

(3). "Significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

(b). In determining under section 5-523 and section 5-531, subsection (e) whether a respondent has a significant connection with a particular state, the court shall consider:

(1). The location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;

(2). The length of time the respondent at any time was physically present in the state and the duration of any absence;

(3). The location of the respondent's property; and

(4). The extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship and receipt of services.

### **§5-522. Exclusive basis**

This subpart provides the exclusive jurisdictional basis for a court of this State to appoint a guardian or issue a protective order for an adult.

### **§5-523. Jurisdiction**

A court of this State has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

(a). This State is the respondent's home state;

(b). On the date the petition is filed, this State is a significant-connection state and;

(1). The respondent does not have a home state or a court of the respondent's home state has declined to exercise jurisdiction because this State is a more appropriate forum;

(2). The respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state and, before the court makes the appointment or issues the order:

(i) A petition for an appointment or order is not filed in the respondent's home state;

(ii) An objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding; and

(iii) The court in this State concludes that it is an appropriate forum under the factors set forth in section 5-526;

(3). This State does not have jurisdiction under either paragraph (1) or (2), the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this State is the more appropriate forum and jurisdiction in this State is consistent with the constitutions of this State and the United States; or

(4). The requirements for special jurisdiction under section 5-524 are met.

#### **§5-524. Special jurisdiction**

(a). If this State is not the respondent's home state and not a significant-connection state, a court of this State has special jurisdiction to do any of the following:

(1). Appoint a guardian in an emergency for a term not exceeding 6 months for a respondent who is physically present in this State;

(2). Issue a protective order with respect to real or tangible personal property located in this State; or

(3). Appoint a guardian or conservator for an incapacitated person or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to section 5-531.

(b). If a petition for the appointment of a guardian in an emergency is brought in this State and this State was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

#### **§5-525. Exclusive and continuing jurisdiction**

Except as otherwise provided in section 5-524, a court that has appointed a guardian or issued a protective order consistent with this Part has exclusive and

continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

#### **§5-526. Appropriate forum**

(a). A court of this State having jurisdiction under section 5-523 to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(b). If a court of this State declines to exercise its jurisdiction under subsection (a), it shall either:

(1). Dismiss or stay the proceeding; or

(2). Impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

(c). In determining whether it is an appropriate forum, the court shall consider all relevant factors, which may include:

(1). Any expressed preference of the respondent;

(2). Whether abuse, neglect or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect or exploitation;

(3). The length of time the respondent was physically present in or was a legal resident of this State or another state;

(4). The distance of the respondent from the court in each state;

(5). The financial circumstances of the respondent's estate;

(6). The nature and location of the evidence;

(7). The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;

(8). The familiarity of the court of each state with the facts and issues in the proceeding; and

(9). If an appointment were made, the court's ability to monitor the conduct of the guardian or conservator.

#### **§5-527. Jurisdiction declined by reason of conduct**

(a). If at any time a court of this State determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

(1). Decline to exercise jurisdiction;

(2). Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety and welfare of the respondent or the protection of the respondent's property or prevent

a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

(3). Continue to exercise jurisdiction after considering:

(i) The extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(ii) Whether it is a more appropriate forum than the court of any other state under the factors set forth in section 5-526, subsection (c); and

(iii) Whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of section 5-523.

(b). If a court of this State determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses and travel expenses. The court may not assess fees, costs or expenses of any kind against this State or a governmental subdivision, agency or instrumentality of this State unless authorized by law other than this Part.

#### **§5-528. Notice of proceeding**

If a petition for the appointment of a guardian or issuance of a protective order is brought in this State and this State was not the respondent's home state on the date the petition was filed, in addition to complying with the notice requirements of this State, notice of the petition must be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice must be given in the same manner as notice is required to be given in this State.

#### **§5-529. Proceedings in more than one state**

Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this State under section 5-524, subsection (a), paragraph (1) or (2), if a petition for the appointment of a guardian or issuance of a protective order is filed in this State and in another state and neither petition has been dismissed or withdrawn, the following apply:

(a). If the court in this State has jurisdiction under section 5-523, it may proceed with the case unless a court in another state acquires jurisdiction under pro-

visions similar to section 5-523 before the appointment or issuance of the order.

(b). If the court in this State does not have jurisdiction under section 5-523, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this State shall dismiss the petition unless the court in the other state determines that the court in this State is a more appropriate forum.

### **SUBPART 3**

### **TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP**

#### **§5-531. Transfer of guardianship or conservatorship to another state**

(a). A guardian or conservator appointed in this State may petition the court to transfer the guardianship or conservatorship to another state.

(b). Notice of a petition under subsection (a) must be given to the persons that would be entitled to notice of a petition in this State for the appointment of a guardian or conservator.

(c). On the court's own motion or on request of the guardian or conservator, the incapacitated person or protected person or other person required to be notified of the petition, the court shall hold a hearing or provide an opportunity for a hearing to be held on a petition filed pursuant to subsection (a).

(d). The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

(1). The incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2). An objection to the transfer has not been made or, if an objection has been made, the objector has not established by a preponderance of the evidence that the transfer would be contrary to the best interests of the incapacitated person; and

(3). Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

(e). The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

- (1). The protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in section 5-521, subsection (b);
- (2). An objection to the transfer has not been made or, if an objection has been made, the objector has not established by a preponderance of the evidence that the transfer would be contrary to the best interests of the protected person; and
- (3). Adequate arrangements will be made for management or disposition of the protected person's property.
- (f). The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:
- (1). A provisional order accepting the proceeding from the court to which the proceeding is to be transferred that is issued under provisions similar to section 5-532; and
- (2). The documents required to terminate a guardianship or conservatorship in this State.

**§5-532. Accepting guardianship or conservatorship transferred from another state**

- (a). To confirm transfer of a guardianship or conservatorship transferred to this State under provisions similar to section 5-531, the guardian or conservator must petition the court in this State to accept the guardianship or conservatorship. The petition must include a certified copy of the other state's provisional order of transfer.
- (b). Notice of a petition under subsection (a) must be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this State. The notice must be given in the same manner as notice is required to be given in this State.
- (c). On the court's own motion or on request of the guardian or conservator, the incapacitated person or protected person or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection (a).
- (d). The court shall issue an order provisionally granting a petition filed under subsection (a) unless:
- (1). An objection is made and the objector establishes by a preponderance of the evidence that transfer of the proceeding would be contrary to the best interests of the incapacitated person or protected person; or
- (2). The guardian or conservator is ineligible for appointment in this State.

(e). The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this State upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to section 5-531 transferring the proceeding to this State.

(f). In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated person's or protected person's incapacity and the appointment of the guardian or conservator.

(g). The denial by a court of this State of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this State under Part 3 or 4 if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

**SUBPART 4**

**REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES**

**§5-541. Registration of guardianship**

If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this State, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this State by filing as a foreign judgment in a court, in any appropriate county of this State, certified copies of the order and letters of office and the guardian's notification to the appointing court of an intent to register in this State.

**§5-542. Registration of protective orders**

If a conservator has been appointed in another state and a petition for a protective order is not pending in this State, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this State by filing as a foreign judgment in a court of this State, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office, of the conservator's notification to the appointing court of an intent to register in this State and of any bond.

**§5-543. Effect of registration**

(a). Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this State all powers authorized in the order of appointment except as prohibited under the laws of this State, including maintaining actions and proceedings in this State and, if the guard-

ian or conservator is not a resident of this State, subject to any conditions imposed upon nonresident parties.

(b). A court of this State may grant any relief available under this Part and other law of this State to enforce a registered order.

#### **SUBPART 5**

#### **MISCELLANEOUS PROVISIONS**

#### **§5-551. Uniformity of application and construction**

In applying and construing this Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

#### **§5-552. Relation to Electronic Signatures in Global and National Commerce Act**

This Part modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., but does not modify, limit or supersede 15 United States Code, Section 7001(c) or authorize electronic delivery of any of the notices described in 15 United States Code, Section 7003(b).

#### **§5-553. Transitional provisions**

(a). This Part applies to guardianship and protective proceedings begun on or after July 1, 2013.

(b). Subparts 1, 3 and 4 and sections 5-551 and 5-552 apply to proceedings begun before July 1, 2013, regardless of whether a guardianship or protective order has been issued.

#### **§5-554. Effective date**

This Part takes effect July 1, 2013.

See title page for effective date.

### **CHAPTER 565**

#### **H.P. 898 - L.D. 1207**

#### **An Act To Amend the Labor Laws Relating to Certain Agricultural Employees**

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

**Sec. 1. 26 MRSA c. 16**, as amended, is repealed.

**Sec. 2. Review; report.** By January 15, 2017, the Department of Labor shall review the status of labor relations in this State between agricultural employees and agricultural employers that operate egg processing facilities that have over 500,000 laying birds and that employ more than 100 agricultural em-

ployees. The department shall assess the impact of changes to the laws contained in this Act and shall develop any recommendations necessary to promote agreements between agricultural employers and agricultural employees to limit industrial strife, promote stability in the farm labor force and improve the economic status of workers and businesses. The department shall submit its recommendations, together with any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over labor matters. Upon receipt and review of the report, the joint standing committee may submit legislation to the First Regular Session of the 128th Legislature.

See title page for effective date.

### **CHAPTER 566**

#### **H.P. 646 - L.D. 879**

#### **An Act To Ensure Adequate Landfill Capacity in the State for Solid Waste**

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

**Sec. 1. 38 MRSA §1310-X, sub-§3**, as amended by PL 1995, c. 68, §1 and c. 465, Pt. A, §21 and affected by Pt. C, §2, is further amended to read:

**3. Expansion of facilities.** The department may license an expansion of a commercial solid waste disposal or biomedical waste disposal or treatment facility after September 30, 1989 if:

A. The department has previously licensed the facility prior to October 6, 1989;

B. The department determines that the proposed expansion is contiguous with the existing facility and ~~is located on property owned on December 31, 1989 by the licensee or by a corporation or other business entity under common ownership or control with the licensee; and:~~

(1) Is located on property owned on December 31, 1989 by the licensee or by a corporation or other business entity under common ownership or control with the licensee; or

(2) For a commercial solid waste disposal facility that is a commercial landfill facility that is not under order or agreement to close, is located on property owned by the licensee; and

C. For a commercial solid waste disposal facility the commissioner or the department determines as provided in section 1310-N, subsection 3-A that the facility provides a substantial public benefit.

The department may not process or act upon any application or license an expansion of a commercial landfill facility pursuant to this subsection until the applicant demonstrates to the department that it is in full compliance with the host community agreement pursuant to section 1310-N, subsection 9, if any, on the existing facility and until a host community agreement amendment is executed to account for the proposed expansion.

An expanded facility may not receive a property tax exemption on real or personal property.

**Sec. 2. 38 MRSA §1310-AA, sub-§1-A, ¶D,** as enacted by PL 2007, c. 338, §3 and affected by §5, is amended to read:

D. For purposes of this subsection, "waste that is generated within the State" includes residue and bypass generated by incineration, processing and recycling facilities within the State; waste whether generated within the State or outside of the State used for daily cover, frost protection or stability in accordance with all applicable rules and licenses; and waste generated within 30 miles of the solid waste disposal facility.

**Sec. 3. 38 MRSA §1310-AA, sub-§2,** as amended by PL 2007, c. 338, §3 and affected by §5, is further amended to read:

**2. Process.** Determinations by the commissioner under this section are not subject to Title 5, chapter 375, subchapter 4. The commissioner applicant shall provide public notice of the filing of an application under this section and in accordance with department rules. The department shall accept written public comment on during the course of processing the application for 20 days after the date of the notice. In making the determination of whether the facility under subsection 1 or the acceptance of waste that is not generated within the State under subsection 1-A provides a substantial public benefit, the commissioner shall consider the state plan, written information submitted in support of the application and any other written information the commissioner considers relevant. The commissioner ~~may~~ shall hold a public meeting in the vicinity of the proposed facility under subsection 1 or the solid waste landfill under subsection 1-A to take public comments and shall consider those comments in making the determination. The commissioner shall issue a decision on the matter within 60 days of receipt of the application. The commissioner's decisions under this section may be appealed to the board, but the board is not authorized to assume jurisdiction of a decision under this section.

**Sec. 4. 38 MRSA §1310-AA, sub-§3, ¶A,** as enacted by PL 1995, c. 465, Pt. A, §22 and affected by Pt. C, §2, is amended to read:

A. Meets immediate, short-term or long-term capacity needs of the State. For purposes of this paragraph, "immediate" means within the next 3 years, "short-term" means within the next 5 years and "long-term" means within the next 10 years. When evaluating whether a proposed facility meets the capacity needs of the State, the commissioner shall consider relevant local and regional needs as appropriate and the regional nature of the development and use of disposal capacity due to transportation distances and other factors;

**Sec. 5. 38 MRSA §1310-AA, sub-§3, ¶B,** as amended by PL 2007, c. 338, §3 and affected by §5, is further amended to read:

B. Except for expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling, is consistent with the state waste management and recycling plan and promotes the solid waste management hierarchy as set out in section 2101;

**Sec. 6. 38 MRSA §1310-AA, sub-§5,** as enacted by PL 2007, c. 414, §5, is amended to read:

**5. Modifications.** Public benefit determinations may be revised by the department if the department finds that a material change in the underlying facts or circumstances upon which a public benefit determination was based has occurred or is proposed, including, but not limited to, a change related to disposal capacity or a change of the owner or operator of a facility. The department may require the holder of a public benefit determination to submit an application for modification of that determination if the department finds that a change in the underlying facts or circumstances has occurred or is proposed.

**Sec. 7. 38 MRSA §1310-AA, sub-§7** is enacted to read:

**7. Decision making.** When making a decision on an application for a determination of public benefit, the commissioner:

A. May issue a full or partial approval of an application, with or without conditions; and

B. For an application related to a state-owned solid waste disposal facility, shall conduct a review that is in accordance with the provisions of this section and is independent of any other contract or agreement between the State and the facility operator or any other party concerning the operation or development of the facility.

See title page for effective date.

**CHAPTER 567**  
**S.P. 553 - L.D. 1654**

**An Act To Permit the  
Department of Marine  
Resources To Develop and  
Establish a Seafood Export  
Certification Program**

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

**Whereas,** current restrictions on the international export of seafood require the seafood to be certified by the National Oceanic and Atmospheric Administration; and

**Whereas,** due to limited resources at the National Oceanic and Atmospheric Administration, persons who fish commercially in the State often are required to wait for the National Oceanic and Atmospheric Administration to certify the seafood and issue the certificate needed for international export; and

**Whereas,** the time spent waiting results in reduced productivity for persons who fish commercially in the State; 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. 12 MRSA §6101, sub-§2,** as amended by PL 1989, c. 57, §2, is further amended to read:

**2. Program.** The department ~~shall be~~ is the state agency ~~which shall be~~ that is responsible for cooperating with the Federal Government in developing and administering a voluntary fishery product inspection program. Notwithstanding section 6103, the commissioner may enter into agreements with the United States Department of Commerce, National Oceanic and Atmospheric Administration and seafood producers for the issuance of certificates of compliance necessary to meet international regulations and obtain reimbursement from the United States Department of Commerce, National Oceanic and Atmospheric Administration for the costs incurred by the department for the inspection and certification program.

**Sec. 2. Commissioner to develop a voluntary fishery product inspection program.** The Commissioner of Marine Resources, referred to in this

section as "the commissioner," shall work with the United States Department of Commerce, National Oceanic and Atmospheric Administration to seek to develop a memorandum of understanding that establishes the appropriate procedures and protocols to allow the Department of Marine Resources to perform inspections for the voluntary fishery product inspection program under the Maine Revised Statutes, Title 12, section 6101.

**1. Research.** The commissioner shall consider the following:

A. The number of and location of staff positions required to carry out the voluntary fishery product inspection program, taking into account the number of inspections currently taking place, how often inspections are required and the location of the majority of the inspection activity;

B. A mechanism to fund inspector training and the inspection period prior to receiving reimbursement from the National Oceanic and Atmospheric Administration and whether the funding could be covered using existing resources; and

C. Whether the voluntary fishery product inspection program would save costs and increase flexibility compared to existing National Oceanic and Atmospheric Administration inspections.

**2. Report.** By January 15, 2013, the commissioner shall submit a report to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the commissioner's findings and progress regarding a voluntary fishery product inspection program.

The report must include the status of efforts to enter into a memorandum of understanding between the Department of Marine Resources and the National Oceanic and Atmospheric Administration and any draft legislation necessary to implement the commissioner's recommendations concerning the voluntary fishery product inspection program.

The joint standing committee of the Legislature having jurisdiction over marine resources matters may report out a bill on the subject of the report to the First Regular Session of the 126th Legislature.

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

Effective March 30, 2012.

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**CHAPTER 568**  
**H.P. 1204 - L.D. 1598**

**An Act To Clarify the Court's  
Authority To Grant Credit  
Given for Jail Time toward  
Payment of Fines**

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

**Sec. 1. 17-A MRSA §1304, sub-§3, ¶A**, as amended by PL 2011, c. 334, §1, is further amended to read:

A. Unless the offender shows by a preponderance of the evidence that the default was not attributable to an intentional or knowing refusal to obey the court's order or to a failure on the offender's part to make a good faith effort to obtain the funds required for the payment, the court shall find that the default was unexcused and may:

(1) Commit the offender to the custody of the sheriff until all or a specified part of the fine is paid. The length of confinement in a county jail for unexcused default must be specified in the court's order and may not exceed ~~one day for every \$100 of unpaid fine or 6 months, whichever is shorter.~~ An offender committed for nonpayment of a fine is given credit toward the payment of the fine for each day of confinement that the offender is in custody; at the rate specified in the court's order, which may not be less than \$25 or more than \$100 of unpaid fine for each day of confinement. The offender is also given credit for each day that the offender is detained as the result of an arrest warrant issued pursuant to this section. An offender is responsible for paying any fine remaining after receiving credit for confinement and detention. A default on the remaining fine is also governed by this section; or

(2) If the unexcused default relates to a fine imposed for a Class D or Class E crime, as authorized by chapter 53, order the offender to perform community service work, as authorized in chapter 54-C, until all or a specified part of the fine is paid. The number of hours of community service work must be specified in the court's order and ~~may not exceed 8 hours for every \$25 of unpaid fine or the offender must receive a credit against the unpaid fine of no less than \$25 for every 8 hours of community service work completed, which may not exceed one hundred 8-hour days, whichever is shorter.~~ An offender ordered to perform community service work pursuant to this subparagraph is given credit

toward the payment of the fine for each 8-hour day of community service work performed at the rate specified in the court's order. The offender is also given credit toward the payment of the fine for each day that the offender is detained as a result of an arrest warrant issued pursuant to this section at a rate specified in the court's order that is up to \$100 of unpaid fine per day of confinement. An offender is responsible for paying any fine remaining after receiving credit for any detention and for community service work performed. A default on the remaining fine is also governed by this section.

See title page for effective date.

**CHAPTER 569**  
**H.P. 1311 - L.D. 1786**

**An Act To Amend the  
Requirement That the  
Department of Labor Calculate  
the Livable Wage**

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

**Sec. 1. 26 MRSA §1-A**, as enacted by PL 2007, c. 363, §1, is amended to read:

**§1-A. Livable wage defined**

As used in this Title, unless the context otherwise indicates, "livable wage" means the statewide average livable wage for a 2-parent household with 2 earners and 2 children as reported by the Department of Labor in the most recent ~~annual~~ biennial report required pursuant to section ~~1405~~ 1406.

**Sec. 2. 26 MRSA §1405**, as amended by PL 2009, c. 11, §1, is repealed.

**Sec. 3. 26 MRSA §1406** is enacted to read:

**§1406. Calculation of livable wage**

By July 1, 2013 and biennially thereafter, the department shall calculate the livable wage and develop a basic needs budget for households in this State based on, at a minimum, a 2-parent household with 2 earners and 2 children representative family size, but only if funding has been appropriated for these purposes.

By December 1, 2013 and biennially thereafter, the department shall report the livable wages calculated and the basic needs budget for households developed pursuant to this section to the Legislature if funds have been appropriated for these purposes.

See title page for effective date.

**CHAPTER 570**  
**S.P. 607 - L.D. 1762**

**An Act To Amend and Clarify  
the Public Charter School Law**

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

**Sec. 1. 5 MRSA §12004-G, sub-§10-D**, as enacted by PL 2011, c. 414, §1, is amended to read:

**10-D.**

Education	State <u>Maine</u>	Travel	20-A MRSA
	Charter School	Expenses	§2405, sub-§8
	Commission	Only	

**Sec. 2. 20-A MRSA §2401, sub-§2-A** is enacted to read:

**2-A. Catchment area.** "Catchment area" means the geographic area from which a public charter school expects to draw the majority of its students, which may not be smaller than the combined enrollment areas of the 2 closest noncharter public schools serving students of the same grade levels as the applicant is proposing to serve, or the geographic area within a radius of 20 miles extending from the public charter school, whichever is smaller.

**Sec. 3. 20-A MRSA §2403, sub-§5**, as enacted by PL 2011, c. 414, §5, is amended to read:

**5. Investigation and sanction of authorizers.** Consistent with the policies and practices established in subsection 4, the department may investigate and, as appropriate, institute sanctions in response to deficiencies in authorizer performance or legal compliance. In addition to any other sanction instituted, the commissioner may suspend a deficient authorizer's authority to issue new charters or renew existing charters until the commissioner is satisfied that the deficiencies have been corrected.

**Sec. 4. 20-A MRSA §2405, sub-§1, ¶C**, as enacted by PL 2011, c. 414, §5, is amended to read:

C. A collaborative among ~~authorizing entities~~ local school boards that forms to set up a regional public charter school to be located within the area managed and controlled by those local school boards.

**Sec. 5. 20-A MRSA §2405, sub-§4, ¶¶C and D**, as enacted by PL 2011, c. 414, §5, are amended to read:

C. The status of the authorizer's public charter school portfolio of approved charter applications, identifying all public charter schools within that portfolio as:

- (1) Approved, but not yet open;

- (2) Operating;
- (3) Renewed;
- (4) Transferred;
- (5) Terminated;
- (6) Closed; or
- (7) Never opened; ~~and~~

D. The oversight and services provided by the authorizer to the public charter schools under the authorizer's purview; ~~and~~

**Sec. 6. 20-A MRSA §2405, sub-§4, ¶E** is enacted to read:

E. The total amount of funds collected from each public charter school the authorizer authorized pursuant to subsection 5, paragraph B and the costs incurred by the authorizer to oversee each public charter school.

**Sec. 7. 20-A MRSA §2405, sub-§8**, as enacted by PL 2011, c. 414, §5, is amended to read:

**8. Maine Charter School Commission.** The State Maine Charter School Commission, established under Title 5, section 12004-G, subsection 10-D, is referred to in this chapter as "the commission."

A. The commission consists of 7 members appointed by the state board for 3-year terms. The commission shall elect a chair and such other officers as may be necessary to conduct its business. Four members constitute a quorum.

- (1) Three members must be members of the state board, and those 3 members shall nominate the other 4 members who must be approved by a majority vote of the state board.
- (2) Members appointed to the commission must have diverse professional experience in education, social services, youth training, business startup and administration, accounting and finance, strategic planning and non-profit governance. The following provisions apply to the appointment of the 4 other members nominated and appointed by state board members pursuant to subparagraph (1):

(a) In appointing members to the commission, the state board shall give proper consideration to candidates with experience in a noncharter public school in the State in one of the following positions: school board member, superintendent, teacher and special education director;

(b) The state board shall ensure that the joint standing committee of the Legislature having jurisdiction over education matters has an opportunity to meet and

interview the candidate or candidates nominated for the commission;

(c) Within 10 days of meeting with the candidate or candidates, the joint standing committee of the Legislature having jurisdiction over education matters shall deliver to the state board its written appraisal of the strengths and weaknesses of the candidate or candidates; and

(d) The state board shall consider the appraisal of the joint standing committee of the Legislature having jurisdiction over education matters prior to appointing a candidate or candidates to the commission.

(3) A commission member may not serve more than 3 consecutive terms, but may serve again after not serving on the commission for at least one term.

(4) A commission member may not receive compensation, but may be reimbursed for ~~travel~~ expenses.

(5) A commission member who is a member of the state board serves on the commission only during that person's membership on the state board. Upon expiration of that person's state board membership, the position on the commission becomes vacant and must be filled in the manner provided for filling vacancies. The term of a member who is approved by the state board and reviewed by the joint standing committee of the Legislature having jurisdiction over education matters ends on June 30th of the final year of the member's term.

(6) A vacancy on the commission must be filled in the same manner as the position in which the vacancy occurs is regularly filled, including, if applicable, a review by the joint standing committee of the Legislature having jurisdiction over education matters. A vacancy is filled for the remainder of the unexpired term. If the person serves more than 1 1/2 years of an unexpired term, that service counts as one term for purposes of the limitation set forth in subparagraph (3).

(7) A member of the commission may be removed for failure to perform the duties of office, as specified in commission rules, by a majority vote of the state board.

B. The commission shall adopt rules for the organization and operation of the commission and to develop, implement and refine its procedures for authorizing public charter schools in this State. Rules adopted by the commission pursuant to this

paragraph before June 30, 2014 are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. Beginning June 30, 2014, rules adopted by the commission pursuant to this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

C. The commission shall, in keeping with its authorizing responsibilities:

(1) Engage professional and administrative staff, separate from the department;

(2) Convene stakeholder groups and engage experts; and

(3) Seek and receive state, federal and private funds.

D. The commission is the sole authorizer in this State for virtual public charter schools, except that a local school board may authorize a public charter school within its jurisdiction that integrates online and on-site instruction.

**Sec. 8. 20-A MRSA §2405, sub-§9**, as enacted by PL 2011, c. 414, §5, is amended to read:

**9. Transition period.** The public charter school program set out in this chapter must begin with a 10-year transition period, beginning on the effective date of this chapter. During the transition period, the commissioner shall register the charters approved by all authorizers in chronological order by date of approval under this chapter. During the transition period, only 10 public charter schools may be approved by ~~authorizers other than local school boards~~ the commission. Once the cap is reached, the commissioner may not accept further registrations from ~~authorizers other than local school boards~~ the commission and only local school boards and collaboratives of local school boards may approve charters until the end of the transition period.

This subsection is repealed July 1, 2022.

**Sec. 9. 20-A MRSA §2406, sub-§2, ¶F**, as enacted by PL 2011, c. 414, §5, is amended to read:

F. A request for proposals must require applications to provide or describe thoroughly, at a minimum, all of the following essential elements of the proposed public charter school plan:

(1) The proposed public charter school's vision, including:

(a) An executive summary;

(b) The mission and vision of the proposed public charter school, including identification of the targeted student population and the community the school hopes to serve; and

- (c) Evidence of need and community support for the proposed public charter school, including information on discussions with the school administrative unit where the public charter school will be located concerning recruitment and operations of the public charter school and possible collaboration with nearby school administrative units;
- (2) The proposed public charter school's governance plan, including:
- (a) Background information on proposed board members and any assurances or certifications required by the authorizer;
  - (b) Proposed governing bylaws;
  - (c) An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff and any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;
  - (d) A clear description of the roles and responsibilities for the governing board, the school's leadership and management team and any other entities shown on the organization chart;
  - (e) Identification of the proposed founding governing board members and, if identified, the proposed school leader or leaders; and
  - (f) Background information on the school's leadership and management team, if identified;
- (3) The proposed public charter school's plan of organization, including:
- (a) The location or geographic area of the school and the proposed catchment area of the school, which may not be designed to exclude areas with high rates of poverty, English language learners, at-risk students or students with disabilities;
  - (b) The grades to be served each year for the full term of the charter;
  - (c) Minimum, planned and maximum enrollment per grade per year for the term of the charter;
  - (d) The school's proposed calendar and sample daily schedule;
  - (e) Plans and timelines for student recruitment and enrollment, including lottery procedures;
- (f) Explanations of any partnerships or contractual relationships central to the school's operations or mission;
  - (g) The school's proposals for providing transportation, food service and other significant operational or ancillary services;
  - (h) A facilities plan, including backup or contingency plans if appropriate;
  - (i) A detailed school start-up plan, identifying tasks, timelines and responsible individuals; and
  - (j) A closure protocol, outlining orderly plans and timelines for transitioning students and student records to new schools and for appropriately disposing of school funds, property and assets in the event of school closure;
- (4) The proposed public charter school's finances, including:
- (a) A description of the school's financial plan and policies, including financial controls and audit requirements;
  - (b) Start-up and 3-year budgets with clearly stated assumptions;
  - (c) Start-up and first-year cash-flow projections with clearly stated assumptions;
  - (d) Evidence of anticipated fund-raising contributions, if claimed in the application; and
  - (e) A description of the insurance coverage the school proposes to obtain;
- (5) The proposed public charter school's student policy, including:
- (a) The school's plans for identifying and successfully serving students with the wide range of learning needs and styles typically found in noncharter public schools of the sending area;
  - (b) The school's plans for compliance with applicable laws, rules and regulations; and
  - (c) The school's student discipline plans and policies, including those for special education students;
- (6) The proposed public charter school's academic program, including:
- (a) A description of the academic program aligned with the statewide system of learning results under section 6209;

(b) A description of the school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, teaching methods and research basis;

(c) The school's plan for using internal and external assessments to measure and report student progress on the measures and metrics of the performance framework developed by the authorizer in accordance with section 2409; and

(d) A description of cocurricular or extracurricular programs and how they will be funded and delivered; and

(7) The proposed public charter school's staff policy, including:

(a) A staffing chart for the school's first year and a staffing plan for the term of the charter;

(b) Plans for recruiting and developing school leadership and staff;

(c) The school's leadership and teacher employment policies, including performance evaluation plans; and

(d) Opportunities and expectations for parent involvement.

**Sec. 10. 20-A MRSA §2408, sub-§1, ¶A,** as enacted by PL 2011, c. 414, §5, is amended to read:

A. After approval of an application and no later than 60 days prior to the opening date of the public charter school, the authorizer and the governing board shall execute a charter contract that sets forth:

(1) Performance provisions describing the academic and operational performance expectations and measures by which the public charter school will be judged; ~~and~~

(2) Administrative provisions articulating the administrative relationship between the authorizer and the public charter school, including each party's rights and duties; ~~and~~

(3) A description of the standards and processes under which the authorizer may pursue revocation of the charter contract.

**Sec. 11. 20-A MRSA §2410, sub-§2,** as enacted by PL 2011, c. 414, §5, is amended to read:

**2. Notification of unsatisfactory performance or compliance.** In the event that a public charter school's performance or legal compliance appears unsatisfactory, the authorizer shall promptly ~~notify~~ provide written notice to the public charter school of per-

ceived problems and provide reasonable opportunity for the school to remedy the problems.

**Sec. 12. 20-A MRSA §2411, sub-§6, ¶C** is enacted to read:

C. The authorizer shall include in the charter contract a description of the standards and processes under which the authorizer may pursue revocation of the charter contract. The processes must comply with section 2410, subsection 2 and provide an opportunity for the public charter school to be heard prior to a decision on revocation.

**Sec. 13. 20-A MRSA §2412, sub-§4, ¶D,** as enacted by PL 2011, c. 414, §5, is amended to read:

D. A public charter school must have a plan that describes how the school will ~~meet~~ provide transportation for its students who reside in the school's catchment area and what assistance, if any, it will provide to meet the transportation needs of its students who reside outside the catchment area of the school.

**Sec. 14. 20-A MRSA §2412, sub-§5, ¶C,** as enacted by PL 2011, c. 414, §5, is amended to read:

C. Governing boards are subject to and must comply with sections 1002 and 1004 in the same manner as school boards and Title 1, chapter 13.

**Sec. 15. 20-A MRSA §2412, sub-§5, ¶¶G and H** are enacted to read:

G. Public charter schools are subject to the same federal and state laws, regulations and rules regarding special education as noncharter public schools. Notwithstanding any law or rule to the contrary, a public charter school takes over responsibility for special education for a student transferring to the public charter school on the first day of school at the public charter school unless the public charter school and the transferring school agree to an earlier date.

H. A public charter school student's eligibility for and the funding of the student's career and technical education programming are the same as if the student were attending school within that student's resident school administrative unit. If the public charter school is located outside the student's resident school administrative unit, the public charter school is responsible for ensuring that the student is transported to the career and technical education center or to a location from which the student will be transported to the career and technical education center by the resident school administrative unit, the career and technical education region or the career and technical education center.

**Sec. 16. 20-A MRSA §2412, sub-§6, ¶C,** as enacted by PL 2011, c. 414, §5, is amended to read:

C. Teachers at a public charter school may choose to bargain collectively ~~or form a professional group~~ in accordance with this paragraph.

(1) Teachers who are employees of the public charter school have the same rights as other teachers in public education to organize and bargain collectively. Bargaining units at the public charter school must be separate from other bargaining units, such as a district bargaining unit. Staff at noncharter public schools converting to public charter schools have a right to employment benefits as stated in applicable collective bargaining agreements or they may vote to be represented in alternative ways.

~~(2) A teacher who is an employee of the public charter school may choose to be part of a professional group that operates the instructional program under an agreement with the public charter school, forming a partnership or producer cooperative that the teachers collectively own.~~

(3) Teachers who are employees of the public charter school may not be required to be members of any existing collective bargaining agreement between a school administrative unit and its employees. A public charter school may not interfere with civil service laws or other applicable rules protecting the rights of employees to organize and be free from discrimination.

**Sec. 17. 20-A MRSA §2412, sub-§7**, as enacted by PL 2011, c. 414, §5, is repealed.

**Sec. 18. 20-A MRSA §2412-A** is enacted to read:

**§2412-A. Audits**

**1. External audit.** A public charter school shall adhere to generally accepted accounting principles and shall annually engage an external auditor to do an independent audit of the public charter school's finances. The public charter school shall submit the audit to its authorizer and to the department. The audit must include the following:

- A. An accounting of all revenues and expenditures;
- B. A determination of whether proper budgetary controls are in place;
- C. A determination of whether the annual financial data submitted to the authorizer and to the department is correct;
- D. An audit of any federal programs in accordance with applicable federal law; and

E. Any other information that the commissioner requires.

**2. Fiscal year.** The fiscal year of an audit is from July 1st to June 30th, except that audits of federal programs must conform to federal requirements.

**3. Auditors.** Audits must be conducted by qualified certified public accountants or public accountants licensed by the Board of Accountancy.

**4. Initial report to commissioner.** On or before November 1st, a public charter school shall provide the commissioner with:

A. A written determination of whether proper budgetary controls are in place;

B. A written determination of whether the annual financial data submitted to the department is correct, including submission of an audited reconciliation of the annual financial data prepared and certified by the external auditor; and

C. A written determination as to whether the public charter school has complied with applicable provisions of the Essential Programs and Services Funding Act.

**5. Records.** A public charter school shall keep financial records and accounts for 7 years after the end of the fiscal year and shall make them available to the external auditor and any other person upon request.

**6. Report to commissioner.** Within 6 months after the end of an audit under subsection 1, a public charter school shall provide the commissioner with:

A. An audit report;

B. An accounting of all revenues and expenditures;

C. Written assurance that the audit has been conducted in accordance with applicable state and federal laws relating to financial and compliance audits; and

D. Any other information that the commissioner requires.

**7. Corrective action plan.** The commissioner shall review the annual audit under subsection 1 of a public charter school and determine if the public charter school should develop a corrective action plan for any audit issues specified in the annual audit. A corrective action plan must address those audit findings and management comments and recommendations that have been identified by the commissioner, and the plan must be filed within the timeline established by the commissioner. The public charter school shall provide assurances to the commissioner that the public charter school has implemented its corrective action plan within the timeline established by the commissioner. If the public charter school has not met the conditions for filing a corrective action plan or provid-

ing assurances that the public charter school has implemented the plan, the commissioner may withhold monthly subsidy payments from the public charter school in accordance with section 6801-A.

**Sec. 19. 20-A MRS §2413, sub-§2**, as enacted by PL 2011, c. 414, §5, is amended to read:

**2. Revenue provisions.** ~~All state~~ State and local operating funds follow each student to the public charter school attended by the student, except that the school administrative unit of the student's residence may retain up to 1% of the per-pupil allocation described in this subsection to cover associated administrative costs.

A. For each public charter school student, the school administrative unit in which the student resides must forward the per-pupil allocation to the public charter school attended by the student as follows.

(1) The per-pupil allocation amount is the EPS per-pupil rate for the school administrative unit in which the student resides, as calculated pursuant to section 15676, based on the student's grade level and adjusted as appropriate for economic disadvantage and limited English proficiency pursuant to section 15675, subsections 1 and 2. ~~For transportation expenses, the average per pupil expense in each school administrative unit of residence must be calculated and a per pupil allocation of that amount must be forwarded to the public charter school attended on the same basis as the per pupil allocations for operating funds.~~ Debt service and capital outlays may not be included in the calculation of these per-pupil allocations. The department shall adopt rules governing how to calculate these per-pupil allocations, including those for ~~gifted and talented programs~~, vocational, technical and career education programs, ~~and~~ targeted funds for assessment technology and kindergarten to grade 2 programs.

(2) For students attending public charter schools, the school administrative unit of residence shall forward the per-pupil allocations described in subparagraph (1) directly to the public charter school attended. These per-pupil allocations must be forwarded to each public charter school on a quarterly basis, as follows. For each fiscal year, allocations must be made in quarterly payments on September 1st, December 1st, March 1st and June 1st. The September payment must be based on the number of students enrolled or anticipated to be enrolled in the public charter school at the opening of school for that school year, which may not exceed the maximum enrollment approved in the charter

contract for that year unless a waiver is obtained from the authorizer. In February of the school year, if the number of students is higher or lower than the number of students at the beginning of the school year, adjustments must be made in the June payment, with 50% of the annual per-pupil allocation added for additional students or subtracted if the total number of students is lower.

(3) For transportation expenses, the average per-pupil expense in each school administrative unit of residence must be calculated and an amount equal to a proportion, up to but not more than 100%, of that per-pupil allocation amount must be forwarded to the public charter school attended on the same basis as the per-pupil allocations for operating funds. The percentage of that per-pupil expense must be determined by the authorizer of the public charter school and must be based on the cost of transportation services provided by the public charter school to the student.

(4) The department shall pay to the public charter school any additional allocation assigned to the public charter school for gifted and talented students pursuant to section 15681-A, subsection 5 in the year in which the allocation is assigned.

A school administrative unit is not required to send funds to a public charter school for a student enrolled in the public charter school's preschool or prekindergarten program if the school administrative unit of the student's residence does not offer that program to its own residents.

B. The following provisions govern special education funding.

(1) For each enrolled special education pupil, a public charter school must receive the average additional allocation calculated by the department under section 15681-A, subsection 2 for each school administrative unit for its special education students. These allocations must be paid on the same basis as the per-pupil allocations for operating funds.

(2) The school administrative unit of residence shall pay directly to the public charter school any federal or state aid attributable to a student with a disability attending the public charter school in proportion to the level of services for the student with a disability that the public charter school provides directly or indirectly.

(3) The department shall pay to the public charter school any additional allocation assigned to the public charter school because of a high-cost in-district placement in accor-

dance with section 15681-A, subsection 2, paragraph B in the year in which the allocation is assigned.

(4) The school administrative unit of residence shall pay to the public charter school any additional allocation assigned to the unit because of a high-cost out-of-district placement in accordance with section 15681-A, subsection 2, paragraph C in the year in which the allocation is assigned to the school administrative unit.

(5) If the public charter school in which the student is enrolled was authorized by a local school board or a collaborative of local school boards, the funds under this paragraph must be paid to the local school board that authorized the public charter school or to the designated school board of the collaborative, rather than directly to the public charter school. The local school board or boards that authorized the charter school are responsible for ensuring that special education services are provided to students in that school, pursuant to section 2412, subsection 2, paragraph A.

C. Except as otherwise provided in this chapter, the State shall send applicable federal funds directly to public charter schools attended by eligible students. Public charter schools with students eligible for funds under Title I of the federal Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq. must receive and use these funds in accordance with federal and state law. During the first year of operation, a public charter school must receive Title I funds on the basis of an estimated enrollment of eligible students, as agreed with its authorizer.

D. A public charter school may receive gifts and grants from private sources in any manner that is available to a school administrative unit.

E. A public charter school may not levy taxes or issue bonds secured by tax revenues.

F. In the event of the failure of the school administrative unit to make payments required by this section, the Treasurer of State shall deduct from any state funds that become due to the school administrative unit an amount equal to the unpaid obligation. The Treasurer of State shall pay over the amount to the public charter school upon certification by the department. The department shall adopt rules to implement the provisions of this paragraph.

G. Any money received by a public charter school from any source and remaining in the school's accounts at the end of any budget year remains in the school's accounts for use by the

school during subsequent budget years and may not revert to the authorizer or to the State.

H. Nothing in this chapter may be construed to prohibit any person or organization from providing funding or other assistance for the establishment or operation of a public charter school. The governing board of a public charter school may accept gifts, donations or grants of any kind made to the school and expend or use such gifts, donations or grants in accordance with the conditions prescribed by the donor except that a gift, donation or grant may not be accepted if subject to a condition that is contrary to any provision of law or term of the charter contract.

~~I. Public charter schools have the same access as other noncharter public schools to any risk pool for high cost special education services and to any fund for fiscal emergencies.~~

J. The department may establish a method of transferring funds to public charter schools that is an alternative to the method provided in this subsection.

See title page for effective date.

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## CHAPTER 571

### S.P. 609 - L.D. 1770

#### An Act To Encourage Parental Involvement in Education

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

**Sec. 1. 20-A MRSA §254, sub-§16** is enacted to read:

**16. Parental involvement initiatives.** The commissioner shall strongly encourage each school board to adopt local procedures for implementing a districtwide parental involvement initiative as school board policy in accordance with section 255, subsection 6.

**Sec. 2. 20-A MRSA §255, sub-§6** is enacted to read:

**6. Parental involvement initiatives; post.** Beginning with the 2013-2014 school year, a school administrative unit that adopts a parental involvement initiative may submit a copy of that initiative to the department, and the commissioner shall post that initiative on the department's publicly accessible website. The commissioner also shall post on the department's publicly accessible website links to the publicly accessible websites of those school administrative units that have chosen to adopt districtwide parental involvement initiatives as school board policy and that have submitted those initiatives to the department.

**Sec. 3. Parental involvement initiative.** In collaboration with organizations representing school boards, school administrators, teachers, parents, students and other community members, the Commissioner of Education shall review parental involvement initiatives developed in this State and other jurisdictions that promote improvement in student learning and academic achievement. The commissioner shall select exemplary parental involvement initiatives and shall post prominently, or include links to, the selected initiatives on the Department of Education's publicly accessible website. The commissioner shall disseminate information in writing to school administrative units on the selected initiatives no later than December 31, 2012 and shall strongly encourage each school board to adopt local procedures for implementing a districtwide parental involvement initiative as school board policy. The exemplary parental involvement initiatives selected by the commissioner must include:

1. Provisions that promote parental involvement in ways that result in improvement in student learning and academic achievement and that provide opportunities for continuous engagement and ongoing partnerships between school boards, administrators, teachers, parents, students and other community members;

2. Procedures that may be used by those school administrative units that choose to develop local districtwide parental involvement initiatives for adoption as school board policy; and

3. Procedures for school administrative units to designate a contact person or persons who provide guidance and relevant information to parents regarding their child's education, opportunities to participate in particular school-based programs or specific information pertaining to particular school policies or programs. The procedures may include protocols for providing parents with contact information for the designated contact person or persons, including posting the contact information on the school administrative unit's publicly accessible website.

See title page for effective date.

**CHAPTER 572**

**H.P. 1337 - L.D. 1813**

**An Act To Amend the Laws  
Governing Confidentiality of  
Health Care Information**

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

**Whereas,** prescribers and dispensers of scheduled drugs may be prohibited by health information

privacy laws from informing law enforcement personnel about suspected drug diversion, which puts emergency health care workers at risk of violence; and

**Whereas,** emergency health care workers will remain at greater risk of violence unless the law governing disclosure of certain information to law enforcement personnel is clarified; 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. 22 MRSA §1711-C, sub-§6, ¶E,** as amended by PL 1999, c. 512, Pt. A, §5 and affected by §7 and c. 790, Pt. A, §§58 and 60, is further amended to read:

E. To federal, state or local governmental entities in order to protect the public health and welfare when reporting is required or authorized by law ~~or~~ to report a suspected crime against the health care practitioner or facility or to report information that the health care facility's officials or health care practitioner in good faith believes constitutes evidence of criminal conduct that occurred on the premises of the health care facility or health care practitioner;

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

Effective March 30, 2012.

**CHAPTER 573**

**S.P. 639 - L.D. 1844**

**An Act To Amend the Laws  
Governing the Governor's  
Training Initiative Program**

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

**Sec. 1. 5 MRSA §13070-J, sub-§1, ¶D,** as amended by PL 2011, c. 380, Pt. HHHH, §1, is further amended to read:

D. "Economic development incentive" means federal and state statutorily defined programs that receive state funds, dedicated revenue funds and tax expenditures as defined by section 1666 whose purposes are to create, attract or retain business entities related to business development in the State, including but not limited to:

- (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;
- (2) The Governor's ~~Training Jobs~~ Initiative Program under Title 26, chapter 25, subchapter 4;
- (3) Municipal tax increment financing under Title 30-A, chapter 206;
- (4) The jobs and investment tax credit under Title 36, section 5215;
- (5) The research expense tax credit under Title 36, section 5219-K;
- (6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915;
- (7) Employment tax increment financing under Title 36, chapter 917;
- (8) The shipbuilding facility credit under Title 36, chapter 919;
- (9) The credit for seed capital investment under Title 36, section 5216-B;
- (10) The credit for pollution-reducing boilers under Title 36, section 5219-Z; and
- (11) The credit for Maine fishery infrastructure investment under Title 36, section 5216-D.

**Sec. 2. 26 MRSA §2031**, as amended by PL 2009, c. 213, Pt. JJJ, §1, is further amended to read:

**§2031. Governor's Jobs Initiative Program**

**1. Program established.** The Governor's ~~Training Jobs~~ Initiative Program, referred to in this section as the "program," is established to encourage high-quality job creation and expansion by directly linking the education and training resources of this State to job opportunities. ~~The~~ To the extent of available resources, the program develops and coordinates training for firms intending to expand or locate in this State, reorganize a workplace to remain competitive or upgrade worker skills by providing essential work competencies such as computer literacy, problem-solving strategies, critical thinking skills, math and science proficiency and team-building skills.

**2. Administration.** The program is administered jointly by the Department of Labor and the Department of Economic and Community Development under rules and operating procedures adopted by the Commissioner of Labor and the Commissioner of Economic and Community Development. Administrative costs are limited to 5% of program funds.

**3. Interdepartmental review team.** An application for funding under the program must be reviewed by an interdepartmental review team. The review team consists of 2 representatives from the Department of Labor, one of whom must be from the Center

for Workforce Research and Information, and 2 representatives from the Department of Economic and Community Development.

**4. Criteria for program funding.** The following criteria must be demonstrated to the committee by an applicant at the time of application. An applicant shall:

- A. Work with the Department of Labor to analyze the occupational skills of the unemployed work force in the designated labor market;
- B. Provide a statement of commitment to long-term operation in this State; and
- C. Comply with any other criteria that has been adopted by the Commissioner of Labor in accordance with the Maine Administrative Procedure Act.

**5. Selection preference.** Preference must be given to an applicant that substantiates one or more of the following at the time of application:

- A. Formation of a local project partnership;
- B. Employer willingness to leverage matching funds;
- C. Investment in the lifelong learning and skills development of citizens of this State;
- D. An increase in the local education and training capacity to support more than one employer that is caused by a proposed project;
- E. Provision of high-wage or high-skill employment, employee benefits and job security;
- F. Employer intention to expand or locate in economically depressed areas of this State;
- G. Employer willingness to hire new labor force entrants, economically disadvantaged individuals, persons with disabilities or dislocated workers; or
- H. Employer willingness to provide a registered apprenticeship for current employees or new hires.

**6. Services.** Services that may be funded by the program include, but are not limited to:

- A. Recruitment;
- B. Screening and assessment;
- C. Workplace literacy;
- D. Workplace safety;
- E. Technical training;
- F. On-the-job training;
- G. Higher education;
- H. Essential work competencies;
- I. Job task analysis;

- J. Coordination of employer consortia to access specialized training;
- K. Technical assistance on work force capacity issues;
- L. Technical assistance on worker training plans;
- M. Small business training and technical assistance; and
- N. Supportive services.

**7. Program standards.** The standards used by the Department of Labor and the Department of Economic and Community Development to evaluate the success of a project must include, but are not limited to:

- A. The number of jobs created or retained in the project and participant demographics;
- B. The cost per participant;
- C. The average wage paid and benefits provided to participants at training completion;
- D. The skills required by the participant to obtain jobs through the training program;
- E. The number and percentage of participants who do not complete each program; and
- F. The return on investment.

**8. Eligibility for funding.** Applicants eligible to receive funding from the program include, but are not limited to, employers, regional and local economic development agencies or partnerships, community-based organizations, job training service providers, registered apprenticeship service providers, local adult education providers and postsecondary education institutions.

An applicant that is not a business shall demonstrate, in partnership with a business or a consortium of businesses, the ability to link training services with actual job creation, expansion, upgrade or retention. Training provided under this section is considered approved training under the unemployment insurance laws and the laws regarding dislocated workers administered by the Department of Labor.

Training funds authorized under this section must be paid to the employer on a reimbursement basis.

**9. Report.** ~~The For any year in which the program is funded, the~~ Commissioner of Labor and the Commissioner of Economic and Community Development shall provide, to the joint standing committee of the Legislature having jurisdiction over labor ~~mat- ters and the joint standing committee of the Legisla- ture having jurisdiction over business, commerce, re- search~~ and economic development matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs; an annual report by March 1st of ~~each the next~~ year,

which must include, for each business assisted under this subchapter, the name and location of ~~each the~~ business, the number of individuals trained or re-trained, the dollar amount expended and, when applicable, the number of new jobs created.

**10. Rules.** Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

**11. Nonlapsing funds.** Any unencumbered balance of General Fund appropriations remaining at the end of each fiscal year in this program may not lapse but must be carried forward to be used for the same purposes.

**Sec. 3. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 26, chapter 25, subchapter 4, in the subchapter headnote, the words "governor's training initiative program" are amended to read "governor's jobs initiative program" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

**CHAPTER 574**

**H.P. 1399 - L.D. 1895**

**An Act To Protect Consumers  
by Strengthening the Laws  
Governing Prepaid Home  
Heating Oil Contracts**

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

**Whereas,** several home heating oil retailers have abruptly closed their businesses; and

**Whereas,** many customers of these retailers were owed heating oil and were left without a refund or the oil, and the current laws have been unable to sufficiently protect these customers; 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. 10 MRSA §1110, sub-§§1-A and 1-B** are enacted to read:

**1-A. Registration.** A home heating oil, kerosene or liquefied petroleum gas dealer who offers prepaid

contracts under this section shall register the dealer's intent to offer such contracts with the Commissioner of Professional and Financial Regulation by June 30th of each year. Registration must be on a form provided by the commissioner, accompanied by a fee of \$100. Fees received under this subsection must be used by the commissioner to administer this section. Any balance of these funds does not lapse but must be carried forward to be expended for the same purpose in the following fiscal year.

**1-B. Report.** A home heating oil, kerosene or liquefied petroleum gas dealer who offers prepaid contracts under this section shall file an annual report with the Commissioner of Professional and Financial Regulation by October 31st of each year demonstrating how the dealer has satisfied the requirements of this section, including how the prepaid contracts are secured. The report must be made on a form provided by the commissioner. The form must conspicuously bear the warning that making a false statement on the form is a Class D crime under Title 17-A, section 453. The report must be signed by the dealer. If the dealer is a corporation, the report must be signed by either the president or an officer of the corporation and must include a list of all of the members of the board of directors of the corporation. The commissioner may not charge a fee for the form or for filing the report.

**Sec. 2. 10 MRSA §1110, sub-§§6 to 9** are enacted to read:

**6. Enforcement.** The Commissioner of Professional and Financial Regulation shall refer to the Attorney General for investigation any dealer that has filed a registration form under subsection 1-A and has failed to file a report demonstrating how the contracts are secured pursuant to subsection 1-B.

**7. Prosecution.** The Attorney General may prosecute a person making a false statement on the report required by subsection 1-B for unsworn falsification under Title 17-A, section 453 and may prosecute failure to file the report required by subsection 1-B as an unfair trade practice.

**8. Unfair trade practice.** A violation of any of the requirements of this section is a violation of the Maine Unfair Trade Practices Act.

**9. Rules.** The Commissioner of Professional and Financial Regulation may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Administrative Services - Professional and Financial Regulation 0094**

Initiative: Allocates one-time funds to reconfigure the licensing system to accommodate the registration of fuel dealers who offer prepaid contracts to residents of the State.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$12,000	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$12,000	\$0

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

Effective March 30, 2012.

**CHAPTER 575  
H.P. 1384 - L.D. 1870**

**An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government To Address Revenue Shortfalls Projected for the Fiscal Year Ending June 30, 2012**

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

**Whereas,** the 90-day period may not terminate until after the beginning of the next fiscal year; and

**Whereas,** certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately in order to achieve savings authorized in this Act; 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. Appropriations and allocations.** The following appropriations and allocations are made.

**TREASURER OF STATE, OFFICE OF  
Debt Service - Treasury 0021**

Initiative: Reduces funding for debt service to reflect updated interest costs for fiscal year 2011-12.

GENERAL FUND	2011-12	2012-13
All Other	(\$1,343,560)	\$0
<b>GENERAL FUND TOTAL</b>	<b>(\$1,343,560)</b>	<b>\$0</b>

**PART B**

**Sec. B-1. PL 2011, c. 477, Part U, §1** is amended to read:

**Sec. U-1. Payments to State from Loan Insurance Reserve Fund.** Notwithstanding any other provision of law, the Finance Authority of Maine shall transfer ~~\$1,000,000~~ \$2,000,000 from the Loan Insurance Reserve Fund to the State as undedicated General Fund revenue no later than June 30, 2012 and an additional \$1,000,000 from the Loan Insurance Reserve Fund to the State as undedicated General Fund revenue no later than June 30, 2013.

**PART C**

**Sec. C-1. Transfer; unexpended funds; Bureau of Revenue Services Fund.** Notwithstanding any other provision of law, the State Controller shall transfer \$450,000 by June 30, 2012 in unexpended funds from the Bureau of Revenue Services Fund, Internal Service Fund account in the Department of Administrative and Financial Services to General Fund unappropriated surplus.

**PART D**

**Sec. D-1. Personal Services savings; transfer to General Fund.** Notwithstanding the Maine Revised Statutes, Title 5, section 1582, subsection 4 or any other provision of law, the State Controller is authorized to transfer the first \$600,000 of unexpended Personal Services appropriations that would otherwise lapse to the Salary Plan program in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund at the close of fiscal year 2011-12.

**PART E**

**Sec. E-1. Lapsed balances; Maine Farms for the Future; General Fund.** Notwithstanding any other provision of law, \$300,000 of unencumbered balance forward in the All Other line category in the Maine Farms for the Future, General Fund account in

the Department of Agriculture, Food and Rural Resources lapses to the General Fund in fiscal year 2011-12.

**PART F**

**Sec. F-1. Department of Health and Human Services; lapsed balances.** Notwithstanding any other provision of law, \$80,904 of unencumbered balance forward from the Department of Health and Human Services, Disproportionate Share - Riverview Psychiatric Center, General Fund account, Personal Services line category lapses to the General Fund no later than June 30, 2012.

**Sec. F-2. Department of Health and Human Services; lapsed balances.** Notwithstanding any other provision of law, \$228,852 of unencumbered balance forward from the Department of Health and Human Services, Disproportionate Share - Dorothea Dix Psychiatric Center, General Fund account, Personal Services line category lapses to the General Fund no later than June 30, 2012.

**PART G**

**Sec. G-1. Transfer; unexpended funds; Fund for the Efficient Delivery of Local and Regional Services.** Notwithstanding any other provision of law, the State Controller shall transfer \$100,000 in unexpended funds from the Fund for the Efficient Delivery of Local and Regional Services, Other Special Revenue Funds account in the Department of Administrative and Financial Services to General Fund unappropriated surplus no later than June 30, 2012.

**PART H**

**Sec. H-1. Calculation and transfer; General Fund savings; central administration.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in the Statewide - Service Center account in section 2 of this Part that applies against each General Fund account for executive branch departments and independent agencies statewide from implementing a decrease in charges made by the Department of Administrative and Financial Services, Division of Financial and Personnel Services for its services. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2011-12.

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Recognizes savings from implementing a decrease in charges made by the Department of Administrative and Financial Services, Division of Financial and Personnel Services for its services.

GENERAL FUND	2011-12	2012-13
All Other	(\$835,588)	\$0
<b>GENERAL FUND TOTAL</b>	<b>(\$835,588)</b>	<b>\$0</b>

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

Effective March 30, 2012.

**CHAPTER 576**

**H.P. 1222 - L.D. 1613**

**An Act To Strengthen the Relationship between Land Users and Landowners**

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

**Sec. 1. 12 MRSA §10108, sub-§3**, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §28 and affected by §422, is repealed.

**Sec. 2. 12 MRSA §10108, sub-§4**, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §29 and affected by §422, is repealed.

**Sec. 3. 12 MRSA §10108, sub-§4-A** is enacted to read:

**4-A. Landowner relations program.** The commissioner shall develop and implement a landowner relations program, referred to in this section as "the program."

A. The program must:

- (1) Encourage landowners to allow outdoor recreationists access to their property to hunt, fish or engage in other outdoor recreational pursuits;
- (2) Foster good relationships between landowners and outdoor recreationists; and
- (3) Promote high standards of courtesy, respect and responsibility by outdoor recreationists in their relations with landowners.

B. The commissioner shall appoint a landowner relations coordinator to oversee the program and any other landowner relations activities of the department.

C. To the extent resources allow, the program must include the following elements:

(1) Building and maintaining an educated and motivated group of outdoor recreationists who meet and promote high standards of courtesy, respect and responsibility in their relations with landowners and who are willing to volunteer in program-related projects or efforts to improve landowner relations;

(2) Issuing a certificate to persons wishing to support or participate in the program. The commissioner may establish a fee for the certificate, which may not exceed \$20. All proceeds from the fees must be deposited in the Landowner Relations Fund established in section 10265;

(3) Developing and disseminating to outdoor recreationists a code of ethics or other information promoting high standards of courtesy, respect and responsibility in their relations with landowners;

(4) Developing an outreach program that provides educational materials and signs and that disseminates information to landowners and land users about landowner rights, landowner liability protections, the tradition of allowing outdoor recreationists to use private land and law enforcement resources available to landowners;

(5) Engaging organizations and companies representing landowners, conservation groups, recreationists, land trusts and other organizations involved in outdoor recreation in developing, implementing and publicizing the program;

(6) Organizing or otherwise promoting landowner appreciation events;

(7) Working with representatives of various state agencies to promote and broaden public access to private lands for recreational use and to enhance enforcement of applicable laws; and

(8) Seeking and developing sources of funding to support the program.

**Sec. 4. 12 MRSA §10157, sub-§1, ¶A**, as enacted by PL 2003, c. 655, Pt. B, §36 and affected by §422, is amended to read:

A. ~~Three~~ Four ex officio members:

- (1) The commissioner or the commissioner's designee;
- (2) The Commissioner of Environmental Protection or the commissioner's designee; ~~and~~

(3) The Commissioner of Conservation or the commissioner's designee; and

(4) The Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee;

**Sec. 5. 12 MRSA §10265** is enacted to read:

**§10265. Landowner Relations Fund**

The Landowner Relations Fund, referred to in this section as "the fund," is established within the department as a nonlapsing fund to be used by the commissioner to fund or assist in funding the landowner relations program established pursuant to section 10108, subsection 4-A. All funds from fees collected under section 10108, subsection 3 and subsection 4-A, paragraph C must be deposited in the fund. The fund receives any other funds appropriated or allocated to the fund. The commissioner may accept and deposit into the fund monetary gifts, donations or other contributions from public or private sources for the purposes specified in this section. The fund must be held separate and apart from all other money, funds and accounts.

**Sec. 6. 12 MRSA §10903, last ¶**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

Outdoor ethics courses must be scheduled by the Bureau of Warden Service and must be given whenever there are 10 or more persons needing or wanting to take the course. The fee for an outdoor ethics course is \$100, payable 10 working days prior to the start of the course. All fees collected under this section are allocated to the ~~Sport Hunter Program landowner relations program~~ established in section 10108, subsection 4, ~~paragraph B~~ 4-A.

**Sec. 7. 29-A MRSA §456-C, sub-§3, ¶A**, as enacted by PL 2007, c. 703, §6, is amended to read:

A. Eighteen dollars credited as follows:

- (1) Fifty percent to the fish hatchery maintenance fund established in Title 12, section 10252;
- (2) Fifteen percent to the Boat Launch Facilities Fund established in Title 12, section 10261;
- (3) Ten percent to the Maine Endangered and Nongame Wildlife Fund established in Title 12, section 10253; and
- (4) Twenty-five percent to the ~~Support Landowners Program landowner relations program~~ in Title 12, section 10108, subsection 4, ~~paragraph A~~ 4-A;

**Sec. 8. Landowners and Sportsmen Relations Advisory Board.** Pursuant to the Maine Revised Statutes, Title 12, section 10157, subsection 7,

paragraph E, the Landowners and Sportsmen Relations Advisory Board shall review its membership and, if necessary, recommend changes in the advisory board's representational membership to the Commissioner of Inland Fisheries and Wildlife. The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters by January 15, 2013 on any recommended changes in the advisory board's membership. The committee may submit a bill regarding the advisory board to the First Regular Session of the 126th Legislature.

**Sec. 9. Appropriations and allocations.** The following appropriations and allocations are made.

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

**Landowner Relations Fund N129**

Initiative: Establishes the Landowner Relations Fund and transfers allocation from the Sport Hunter Program and Support Landowners Program, which are both repealed in this legislation.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	\$3,799
All Other	\$0	\$62,262
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$66,061

**Sport Hunter Program 0827**

Initiative: Eliminates the Sport Hunter Program and transfers allocation to the Landowner Relations Fund.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	(\$2,848)
All Other	\$0	(\$10,905)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$13,753)

**Support Landowners Program 0826**

Initiative: Eliminates the Support Landowners Program and transfers allocation to the Landowner Relations Fund.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	(\$951)
All Other	\$0	(\$51,357)

OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$52,308)
<b>INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF</b>		
<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
OTHER SPECIAL REVENUE FUNDS	\$0	\$0
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>

**Sec. 10. Effective date.** That section of this Act that repeals the Maine Revised Statutes, Title 12, section 10108, subsection 3 takes effect January 1, 2013.

See title page for effective date, unless otherwise indicated.

**CHAPTER 577  
H.P. 1267 - L.D. 1715**

**An Act To Allow for Timely Access to and Enhanced Administration of All Vaccines**

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

**Sec. 1. 32 MRSA §13702-A, sub-§28,** as amended by PL 2009, c. 308, §1, is further amended to read:

**28. Practice of pharmacy.** "Practice of pharmacy" means the interpretation and evaluation of prescription drug orders; the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices; the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records for these drugs and devices; the administration of ~~influenza vaccine, intranasal influenza vaccine, pneumococcal vaccine, shingles or herpes zoster vaccine, tetanus diphtheria pertussis vaccine and tetanus diphtheria vaccine~~ vaccines licensed by the United States Food and Drug Administration that are recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, or successor organization, for administration to adults; the responsibility for advising, when necessary or regulated, of therapeutic values, content,

hazards and use of drugs and devices; and the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy.

**Sec. 2. 32 MRSA §13755** is enacted to read:

**§13755. Vaccine clinics**

A pharmacy may operate a vaccine administration clinic inside, outside or off the pharmacy's premises.

**Sec. 3. 32 MRSA §13831, sub-§§2 and 3,** as enacted by PL 2009, c. 308, §3, are amended to read:

**2. Administration of other vaccines.** A pharmacist licensed in this State who meets the qualifications and requirements of section 13832 and rules adopted by the board, in addition to influenza vaccines under subsection 1, may administer ~~pneumococcal vaccine, shingles or herpes zoster vaccine, tetanus diphtheria pertussis vaccine, tetanus diphtheria vaccine and booster tetanus diphtheria vaccine~~ vaccines licensed by the United States Food and Drug Administration that are recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, or successor organization, for administration to adults to a person 18 years of age or older according to a valid prescription when the person has an existing primary care physician or other existing relationship with a nurse practitioner or an authorized practitioner in this State. When the person does not have an existing relationship with a primary care physician, nurse practitioner or other practitioner in this State, the pharmacist may proceed to administer according to a treatment protocol established by an authorized practitioner or a written standing order from a practitioner authorized under the laws of this State to issue an order, a prescription or a protocol to a person 18 years of age or older for ~~pneumococcal vaccine, shingles or herpes zoster vaccine, tetanus diphtheria pertussis vaccine, tetanus diphtheria vaccine or booster tetanus diphtheria vaccine~~ vaccines licensed by the United States Food and Drug Administration that are recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, or successor organization, for administration to adults.

**3. Emergency administration of certain drugs.**

A pharmacist may administer epinephrine or diphenhydramine, or both, to a person in an emergency situation resulting from an adverse reaction to ~~an immunization~~ a vaccine administered by the pharmacist.

**Sec. 4. 32 MRSA §13831, sub-§4** is enacted to read:

**4. Vaccine clinics.** A pharmacist or pharmacy licensed under this chapter may operate a vaccine administration clinic inside, outside or off the pharmacy's premises if the pharmacist or pharmacy obtains approval from the board for the plan of operation of such

clinics pursuant to rules adopted under section 13835, subsection 1.

**Sec. 5. 32 MRSA §13832, first ¶**, as enacted by PL 2009, c. 308, §3, is amended to read:

In order to administer a drug or ~~immunization~~ vaccine under this subchapter, a pharmacist must:

**Sec. 6. 32 MRSA §13833**, as enacted by PL 2009, c. 308, §3, is amended to read:

**§13833. Treatment protocol**

The pharmacist shall administer drugs and ~~immunizations~~ vaccines in compliance with a treatment protocol established by a practitioner authorized under the laws of this State to order administration of those drugs and ~~immunizations~~ vaccines approved by the board. A copy of the treatment protocol must be submitted to the board. At a minimum the treatment protocol must include:

**1. Standards.** Standards for observation of the person receiving the drug or ~~immunization~~ vaccine to determine whether the person has an adverse reaction, as adopted in rules by the board;

**2. Procedures.** Procedures to be followed by the pharmacist when administering epinephrine, or diphenhydramine, or both, to a person who has an adverse reaction to an ~~immunization~~ vaccine administered by the pharmacist; and

**3. Notification.** Notification to the authorized practitioner who issued the prescription, standing order or protocol under section 13831, subsection 2 of the administration by the pharmacist of the drug or ~~immunization~~ vaccine, or both, within 3 business days.

**Sec. 7. 32 MRSA §13834**, as enacted by PL 2009, c. 308, §3, is amended to read:

**§13834. Prohibited acts**

**1. Delegate authority.** A pharmacist may not delegate the pharmacist's authority to administer drugs or ~~immunizations~~ vaccines.

**2. Administer drugs.** A pharmacist may not engage in the administration of drugs or ~~immunizations~~ vaccines unless the pharmacist meets the qualifications and requirements of section 13832 and the pharmacist has obtained a board-issued certificate of administration.

**Sec. 8. 32 MRSA §13835, sub-§1**, as enacted by PL 2009, c. 308, §3, is amended to read:

**1. Criteria.** Criteria for the operation of a drug vaccine administration clinic ~~within or inside~~, outside a ~~or off the premises of~~ a retail pharmacy, rural health clinic or free clinic licensed under section 13751. ~~The~~

rules must require one-time board approval of the plan of operation for any vaccine administration clinics to be operated by a pharmacist or pharmacy and may not require board approval of each individual clinic;

**Sec. 9. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 32, chapter 117, subchapter 13, in the subchapter headnote, the words "administration of drugs and immunizations" are amended to read "administration of drugs and vaccines" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. 10. Appropriations and allocations.** The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Administrative Services - Professional and Financial Regulation 0094**

Initiative: Provides a one-time allocation in fiscal year 2012-13 for the licensing system modification costs associated with allowing a pharmacist or pharmacy to operate a vaccine administration clinic.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$2,500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$2,500

**Licensing and Enforcement 0352**

Initiative: Provides a one-time allocation in fiscal year 2012-13 for the rulemaking costs associated with allowing a pharmacist or pharmacy to operate a vaccine administration clinic.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$2,500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$2,500

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	\$0	\$5,000

DEPARTMENT TOTAL -	\$0	\$5,000
ALL FUNDS		

See title page for effective date.

**CHAPTER 578**

**H.P. 1370 - L.D. 1852**

**An Act To Provide a More Comprehensive Ban on the Possession of Synthetic Hallucinogenic Drugs**

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

**Sec. 1.** 17-A MRSA §1101, sub-§16-A, ¶¶ G and H, as enacted by PL 2011, c. 465, §5, are amended to read:

- G. Naphthylpyrovalerone, NRG-1;¶
- H. Beta-keto-N-methylbenzodioxolylpropylamine;₃

**Sec. 2.** 17-A MRSA §1101, sub-§16-A, ¶¶ I to O are enacted to read:

- I. 4 - methylethcathinone, 4-MEC;
- J. Butylone;
- K. Eutylone;
- L. Pentedrone;
- M. Pentylone;
- N. 2, 5 - dimethoxy-4-ethylphenethylamine; or
- O. A derivative of cathinone, including any compound, material, mixture, preparation or other product, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
  - (1) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
  - (2) By substitution at the 3-position with an acyclic alkyl substituent; or
  - (3) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxy-benzyl groups or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

This paragraph does not include a drug listed in section 1102 or a drug approved by the United States Food and Drug Administration.

See title page for effective date.

**CHAPTER 579**

**H.P. 1395 - L.D. 1892**

**An Act To Implement the Recommendations of the Joint Standing Committee on Agriculture, Conservation and Forestry under the State Government Evaluation Act**

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

**Sec. 1.** 3 MRSA §959, sub-§1, ¶A, as amended by PL 2009, c. 552, §1, is further amended to read:

A. The joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters shall use the following list as a guideline for scheduling reviews:

- (1) Baxter State Park Authority in 2017;
- (2) Department of Conservation in 2011 2019;
- (3) Blueberry Advisory Committee in 2011;
- (4) Board of Pesticides Control in 2011 2019;
- (5) Wild Blueberry Commission of Maine in 2011 2019;
- (6) Seed Potato Board in 2011;
- (7) Maine Dairy and Nutrition Council in 2015;
- (8) Maine Dairy Promotion Board in 2015;
- (9) Maine Milk Commission in 2015;
- (10) State Harness Racing Commission in 2015;
- (11) Maine Agricultural Bargaining Board in 2017;
- (12) Department of Agriculture, Food and Rural Resources in 2017; and
- (14) Land for Maine's Future Board in 2015.

**Sec. 2.** 36 MRSA §4312-C, sub-§4, as enacted by PL 1997, c. 511, §21 and affected by §25, is repealed and the following enacted in its place:

**4. Term.** Members are appointed to staggered 4-year terms so that the terms of 2 members expire on

August 31st of every year. If the Commissioner of Agriculture, Food and Rural Resources fails to make an appointment prior to the expiration of a member's term, that member continues to serve until the commissioner makes an appointment for the remainder of that term. If a vacancy occurs prior to the expiration of a specified term, the Commissioner of Agriculture, Food and Rural Resources shall appoint an individual to serve only the remainder of that term.

**Sec. 3. Report from Maine Potato Board.** No later than January 15, 2013, the Maine Potato Board shall report to the joint standing committee of the Legislature having jurisdiction over agricultural matters regarding the activities of the Seed Potato Board. The report must include a summary of the production, distribution and sales of seed potatoes in 2010, 2011 and 2012.

**Sec. 4. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 36, section 4312-C, subsection 4, the terms of members serving on the Wild Blueberry Commission of Maine on the effective date of this Act expire at the discretion of the Commissioner of Agriculture, Food and Rural Resources to accommodate the transition to terms beginning on September 1st. No later than August 15, 2012, the commissioner shall appoint 2 members to begin 4-year terms on September 1, 2012. In subsequent years, the commissioner shall appoint 2 members whose terms begin on September 1, 2013; 2 whose terms begin on September 1, 2014; and 2 whose terms begin on September 1, 2015.

See title page for effective date.

**CHAPTER 580**

**H.P. 1203 - L.D. 1597**

**An Act To Make Certain  
Juvenile Case Records  
Confidential**

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

**Sec. 1. 15 MRSA §3301, sub-§6,** as amended by PL 2007, c. 196, §2, is further amended to read:

**6. Review by attorney for the State.** If the juvenile community corrections officer decides not to request the attorney for the State to file a petition, the juvenile community corrections officer shall inform the attorney for the State, the complainant, the law enforcement officer and the victim of the decision and of the reasons for the decision as soon as practicable. The juvenile community corrections officer shall advise the complainant, the law enforcement officer and the victim that they may submit their complaint to the attorney for the State for review.

If the juvenile community corrections officer makes a determination pursuant to subsection 5, paragraph A or B and decides not to request the attorney for the State to file a petition for a violation of Title 22, section 2389, subsection 2 or Title 28-A, section 2052, the juvenile community corrections officer shall inform the Secretary of State of the violation. The Secretary of State shall suspend for a period of 30 days that juvenile's license or permit to operate a motor vehicle, right to operate a motor vehicle and right to apply for and obtain a license. After the suspension is terminated, any record of the suspension is confidential and may be released only to a law enforcement officer or the courts for prosecution of violations of Title 29-A, section 2412-A.

The attorney for the State on that attorney's own motion or upon receiving a request for review by the law enforcement officer, the complainant or the victim, shall consider the facts of the case, consult with the juvenile community corrections officer who made the initial decision and then make a final decision as to whether to file the petition. The attorney for the State shall notify the juvenile community corrections officer of the final decision within 30 days of being informed by the juvenile community corrections officer of the initial decision. If a juvenile community corrections officer has not yet made an initial decision, the attorney for the State may file a petition at any time more than 30 days after the juvenile community corrections officer has been given notice pursuant to section 3203-A.

See title page for effective date.

**CHAPTER 581**

**S.P. 301 - L.D. 955**

**An Act To Establish a Dental  
Adjudicatory Panel System**

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

**Sec. 1. 32 MRSA §1077, sub-§1,** as corrected by RR 2009, c. 2, §87, is amended to read:

**1. Disciplinary proceedings and sanctions.** Regarding noncompliance with or violation of this chapter or of rules adopted by the board, the board shall investigate a complaint on its own motion or upon receipt of a written complaint filed with the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but no later than 60 days from receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further inves-

tigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it considers appropriate:

- A. With the consent of the licensee, enter into a consent agreement that ~~fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee~~ takes any action authorized by Title 10, section 8003, subsection 5 or Title 10, section 8003-D. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;
- B. In consideration for acceptance of a voluntary surrender of the license, if a consent agreement is signed by the board, the licensee and the Attorney General's office, negotiate stipulations, including terms and conditions for reinstatement, that ensure protection of the public health and safety and that serve to rehabilitate or educate the licensee;
- C. If the board concludes that denial of initial licensure or modification or nonrenewal of the an existing license is in order, the board shall hold ~~may refer the complaint to a dental adjudicatory panel, convened pursuant to section 1080, for the purpose of holding~~ an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter 4; or
- D. If the board concludes that suspension or revocation of the license is in order, the board ~~shall~~ may file a complaint in the District Court in accordance with Title 4, chapter 5.

Notwithstanding any other provision of law, a dental adjudicatory panel convened pursuant to section 1080 has the sole authority to hold an adjudicatory hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 and take any action authorized by Title 10, section 8003, subsection 5 or Title 10, section 8003-D following an adjudicatory hearing.

Notwithstanding Title 10, section 8003, subsection 5, any nonconsensual revocation of a license by a dental adjudicatory panel pursuant to Title 10, section 8003 may be imposed only after a hearing conforming to the requirements of Title 5, section 375, subchapter 4 and is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7. The board retains the authority to take any other action pursuant to this section and Title 10, section 8003 regarding the disposition of any complaint that does not involve an adjudicatory hearing.

**Sec. 2. 32 MRSA §1080** is enacted to read:

**§1080. Dental adjudicatory panels**

Dental adjudicatory panels may be convened in accordance with this section.

**1. Purpose of panel.** The purpose of a dental adjudicatory panel, referred to in this section as "a panel," is to conduct adjudicatory hearings independent of the board after the board conducts the initial investigation of a complaint against a licensee and refers the complaint to a panel.

**2. Establishment of a pool of panel members.** The board shall establish a pool of potential panel members. The board may not select a person for the pool who has been found in violation of the dental practices laws or rules within the preceding 10 years. After selection by the board, each member of the pool is subject to review and appointment by the Governor. The pool must be composed of at least 5 dentists, 5 denturists and 5 dental hygienists licensed under this chapter and 5 public members, but if the board finds that it is beneficial to the administration of the pool, the pool may be composed of no fewer than 3 from each category. A pool member may not be a member of the board.

**3. Convening of a panel.** The board may convene a panel for a case that cannot be resolved using a consent agreement. The board shall request a member of its staff to draw names from the pool in accordance with subsection 4. A member of the board may not have a role in the drawing or selection of individuals serving on a panel. For each case, a separate panel must be created and then dissolved once it has issued its decision.

**4. Appointments for a panel.** A panel consists of 5 members appointed from the pool under subsection 2:

A. One member must be a public member;

B. One member must be either a denturist or a dental hygienist. A dental hygienist must be named to the first panel convened. For subsequent panels, the seat must alternate between a dental hygienist and a denturist, unless the defendant is either a denturist or a dental hygienist, in

which case the member filling this seat must be of the defendant's profession; and

C. Three members must be dentists.

If the defendant is a doctor from a dental specialty, at least one of the dentists selected to the panel must, if possible, be of that specialty.

5. Vacancy. In the event of a vacancy on a panel, the board shall appoint a replacement member from the pool under subsection 2.

6. Terms; vacancy. Members of the pool serve 5-year terms. Members may be reappointed. In the event of a vacancy in the pool, the board shall select a replacement member in the same manner as the original selection subject to the provisions of subsection 2.

7. Chair. The members of a panel shall select a chair from among its members. Any member may serve as the chair.

8. Duties and authority of a panel. Upon referral of a complaint by the board pursuant to section 1077, subsection 1, paragraph C to a panel convened pursuant to subsection 3, the panel shall hold an adjudicatory hearing. Upon completion of the adjudicatory hearing, the panel shall issue a decision or order to:

A. Take any action authorized by section 1077, subsection 1; Title 10, section 8003, subsection 5; or Title 10, section 8003-D; or

B. Dismiss the complaint.

9. Compensation. Members of a panel are entitled to reimbursement for travel expenses.

10. Panel meetings. A panel shall hold its first meeting at the request of the board. Subsequent meetings must be held at the request of the chair of the panel.

11. Quorum. Four members of a panel constitutes a quorum.

12. Repeal. This section is repealed September 15, 2014.

**Sec. 3. Authority to report out a bill.** The Board of Dental Examiners shall report to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters concerning the implementation of the dental adjudicatory panel system under the Maine Revised Statutes, Title 32, section 1080 by January 15, 2014. The joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters may report out a bill regarding the dental adjudicatory panel system to the Second Regular Session of the 126th Legislature.

See title page for effective date.

**CHAPTER 582**  
**S.P. 529 - L.D. 1619**

**An Act To Resolve Conflicts in  
the Implementation of the  
Maine Uniform Building and  
Energy Code**

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

**Sec. 1. 10 MRSA §9724, sub-§5,** as enacted by PL 2011, c. 365, §6, is amended to read:

**5. Exception.** This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth provisions for local enforcement of building codes. If such an ordinance does not provide for a process to appeal decisions made by building officials administering and enforcing the Maine Uniform Building Code, the Maine Uniform Energy Code or the Maine Uniform Building and Energy Code, an appeal may be taken in the same manner as provided under Title 30-A, section 4103, subsection 5. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth the swimming pool fencing standards, without amendment, contained in Appendix G of the 2nd edition of the 2009 International Residential Code.

A. The requirements of the Maine Uniform Building and Energy Code do not apply to:

- (1) Log homes or manufactured housing as defined in chapter 951;
- (2) Post and beam or timber frame construction; or
- (3) Warehouses or silos used to store harvested crops.

B. The requirements of the 2009 edition of the International Energy Conservation Code within the Maine Uniform Building and Energy Code do not apply to seasonally restricted cottages.

For the purposes of this paragraph, "seasonally restricted cottage" means a residential building unit made up of a room or group of rooms that provide sleeping accommodations, as well as accommodations for bathing and cooking, for not more than the entire summer season and that do not have water service after the summer season. This paragraph is repealed June 15, 2012.

**Sec. 2. 10 MRSA §9724, sub-§6** is enacted to read:

**6. Adoption by reference.** The Maine Uniform Building Code, the Maine Uniform Energy Code and the Maine Uniform Building and Energy Code may be

adopted by reference by a municipality as specified in Title 30-A, section 3003.

**Sec. 3. 25 MRSA §2351-A**, as enacted by PL 2009, c. 261, Pt. B, §2, is amended to read:

**§2351-A. Building official; compensation; deputy**

In every town and city of more than 2,000 inhabitants, and in every town of 2,000 inhabitants or less, if such a town so votes at a town meeting, and in each village corporation, if such a corporation so votes at the annual meeting of the corporation, the municipal officers shall annually in the month of April appoint a building official, ~~who must be a person certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E,~~ and shall determine the building official's compensation. If a building official is appointed by a municipality that has adopted or is enforcing the Maine Uniform Building and Energy Code or a portion of the Maine Uniform Building and Energy Code pursuant to Title 10, section 9724, that building official must be certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E. Whenever the building official becomes incapacitated, the municipal officers may appoint or authorize the building official to appoint a deputy building official, who shall serve until removed by the municipal officers, but in no event beyond the term for which the building official was appointed. The deputy building official shall perform such duties as may be required of the deputy building official by the building official. The compensation of the deputy building official is determined by the municipal officers.

~~This section takes effect December 1, 2010.~~

**Sec. 4. 25 MRSA §2353-A**, as enacted by PL 2009, c. 261, Pt. B, §4, is amended to read:

**§2353-A. Duty to inspect buildings under construction**

~~Unless the municipality is enforcing the Maine Uniform Building and Energy Code by means of 3rd-party inspectors pursuant to section 2373, subsection 4, the~~ The building official shall inspect each building during the process of construction for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103 and so far as may be necessary to see that all proper safeguards against the catching or spreading of fire are used, that the chimneys and flues are made safe and that proper cutoffs are placed between the timbers in the walls and floorings where fire would be likely to spread, and may give such directions in writing to the owner or contractor as the building official considers necessary concerning the construction of the building so as to render the building safe from the catching and spreading of fire. For a building official in a municipality that is enforcing the Maine Uniform Building and Energy Code pursuant to Title 10, section 9724, unless

the municipality is enforcing that code by means of 3rd-party inspectors pursuant to section 2373, subsection 4, the building official shall inspect each building during the process of construction for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103.

~~This section takes effect December 1, 2010.~~

**Sec. 5. 25 MRSA §2356**, as amended by PL 2009, c. 261, Pt. B, §6, is further amended to read:

**§2356. Appeals**

~~An~~ Unless an alternative appeal process has been established by ordinance pursuant to Title 10, section 9724, subsection 5, an appeal in writing may be taken from any order or direction of the building official to the municipal officers, whose order thereon is final.

**Sec. 6. 25 MRSA §2357-A**, as amended by PL 2011, c. 94, §1 and c. 365, §7, is further amended to read:

**§2357-A. No occupancy without certificate; appeal**

A building in a municipality of more than 2,000 inhabitants may not be occupied until the building official has given a certificate of occupancy for compliance with the inspections required by section 2353-A. A building in a municipality of more than 2,000 inhabitants that has adopted or is enforcing the Maine Uniform Building and Energy Code pursuant to Title 10, section 9724 may not be occupied until the building official has given a certificate of occupancy for compliance with the Maine Uniform Building and Energy Code adopted pursuant to Title 10, chapter 1103, and in accordance with the required enforcement and inspection options provided in section 2373. The building official may issue the certificate of occupancy upon receipt of an inspection report by a certified 3rd-party inspector pursuant to section 2373, subsection 4. The municipality has no obligation to review a report from a 3rd-party inspector for accuracy prior to issuing the certificate of occupancy. If the owner permits it to be so occupied without such certificate, the owner must be penalized in accordance with Title 30-A, section 4452. In case the building official for any cause declines to give that certificate and the builder has in the builder's own judgment complied with section 2353-A, an appeal may be taken pursuant to Title 30-A, section 4103, subsection 5 and, if or through an alternative appeal process that has been established by ordinance pursuant to Title 10, section 9724, subsection 5. If on such appeal it is decided that section 2353-A has been complied with, the owner of the building is not liable to a fine for want of the certificate of the building official.

~~This section takes effect December 1, 2010.~~

See title page for effective date.

**CHAPTER 583  
H.P. 1201 - L.D. 1595**

**An Act To Impose a Penalty  
for Making False Claims  
Regarding Affiliation with a  
Federally Recognized Tribe**

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

**Sec. 1. 17 MRSA §1637** is enacted to read:

**§1637. False claims of membership in federally  
recognized tribe in the State**

**1. Prohibition.** A person may not:

A. Knowingly claim falsely to be a member of the Aroostook Band of Micmacs, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe or the Penobscot Nation;

B. Have the intent to obtain property to which the person is not entitled by making the claim under paragraph A; and

C. Obtain property to which the person is not entitled by making the claim under paragraph A.

**2. Penalty.** A person that violates subsection 1 commits a civil violation for which a fine of not more than \$2,500 may be adjudged.

**3. Definition.** For purposes of this section, "property" has the same meaning as set forth in Title 17-A, section 352, subsection 1.

See title page for effective date.

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**CHAPTER 584  
H.P. 1266 - L.D. 1714**

**An Act To Restrict Further the  
Amount of Methamphetamine  
Precursors That May Be  
Bought or Sold**

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

**Sec. 1. 32 MRSA §13796, sub-§1,** as amended by PL 2007, c. 402, Pt. DD, §32, is repealed.

**Sec. 2. 32 MRSA §13796, sub-§1-A** is enacted to read:

**1-A. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Electronic logging system" means a system that:

(1) Blocks the illegal sale of over-the-counter cold and allergy medications containing a targeted methamphetamine precursor;

(2) Is available free of charge to the State and its taxpayers, retailers and law enforcement;

(3) Operates in real time and communicates across state lines in real time with similar systems; and

(4) Complies with the requirements of the national Criminal Justice Information Exchange or its successor program and the National Information Exchange Model or its successor program.

B. "Override function" means a function in an electronic logging system that may be used to override a stop-sale alert and allows the completion of a sale.

C. "Package" means an item packaged and marked for retail sale that is not designed to be broken down or subdivided for the purpose of retail sale.

D. "Retailer" or "retail store" means a person or business entity engaged in this State in the business of selling products to the general public on a retail basis, including pharmacies.

E. "Sale" or "sold" includes barter, exchange, transfer and gift.

F. "Stop-sale alert" means a notification that alerts the retailer that completion of the sale would result in the seller's or purchaser's violating the targeted methamphetamine precursor quantity limits.

**Sec. 3. 32 MRSA §13796, sub-§3,** as amended by PL 2007, c. 402, Pt. DD, §33, is further amended to read:

**3. Restrictions on the sale of targeted methamphetamine precursors.** The following restrictions on location in the retail store, manner of sale and amount of sale apply to sales of targeted methamphetamine precursors. The limits under this subsection on the amount of targeted methamphetamine precursors that may be sold apply to the total amount of base ephedrine, phenylpropanolamine and pseudoephedrine contained in packages and not the overall weight of the packages.

A. A retailer may not sell ~~more than 3 packages of a targeted methamphetamine precursor per transaction~~ to the same person a targeted methamphetamine precursor that causes the sales to that person of targeted methamphetamine precursors within a 24-hour period to exceed 3.6 grams.

A-1. A person may not purchase more than 3.6 grams of a targeted methamphetamine precursor within a 24-hour period.

A-2. A retailer may not sell to the same person a targeted methamphetamine precursor that causes the sale to that person of targeted methamphetamine precursors within a 30-day period to exceed 9 grams.

A-3. A person may not purchase more than 9 grams of a targeted methamphetamine precursor within a 30-day period.

B. Except with regard to single-dose packages of not more than 60 milligrams that are kept within 30 feet and in direct line of sight of a staffed cash register or store counter, a retailer ~~must~~ shall keep targeted methamphetamine precursors in a location that is locked or otherwise not accessible by customers.

C. Except with regard to single-dose packages of not more than 60 milligrams that are kept within 30 feet and in direct line of sight of a staffed cash register or store counter, the sale of targeted methamphetamine precursors must be completed by:

- (1) A licensed pharmacist or licensed pharmacy technician; or
- (2) An employee of the retailer who accepts payment for the targeted methamphetamine precursor as long as:
  - (a) The employee works under the direct supervision of a pharmacist in the pharmacy area of the retail store; and
  - (b) A licensed pharmacist or licensed pharmacy technician has given individual, express approval for the purchase.

D. Except with regard to single-dose packages of not more than 60 milligrams that are kept within 30 feet and in direct line of sight of a staffed cash register or store counter, a retailer shall require a person purchasing a targeted methamphetamine precursor to present a valid government-issued photograph identification document at the point of sale. A retailer shall record the:

- (1) Name and address of the purchaser;
- (2) Name of the targeted methamphetamine precursor purchased including the number of grams the product contains;
- (3) Date and time of purchase; and
- (4) Form of identification presented, issuing government entity and corresponding identification number.

E. Except with regard to single-dose packages of not more than 60 milligrams that are kept within 30 feet and in direct line of sight of a staffed cash register or store counter, a retailer shall maintain a written or electronic logbook and require a person purchasing a targeted methamphetamine precursor to sign the logbook. A purchaser must sign the logbook acknowledging that the purchaser understands the applicable sales limit and that providing false statements or misrepresentations in the logbook may subject the purchaser to criminal penalties under 18 United States Code, Section 1001.

**Sec. 4. 32 MRSA §13796, sub-§§5 to 7** are enacted to read:

**5. Electronic logging.** Beginning January 1, 2013, a retailer who has access to the Internet shall, before completing a sale under this section, electronically submit the information obtained pursuant to subsection 3, paragraph D to an electronic logging system. If the electronic logging system generates a stop-sale alert, the retailer may not complete the sale. If the retailer has concern for personal safety or the safety of others if a sale is not completed, the retailer may use the system's override function to complete the sale and must maintain a log of the sale. If the retailer experiences mechanical or electronic failure of the electronic logging system and is unable to comply with the electronic logging requirement, the retailer shall maintain a written log or an alternative electronic record-keeping mechanism until such time as the retailer is able to comply with the electronic logging requirement.

**6. Immunity; presumption of good faith.** A retailer is immune from liability for any claims, costs, expenses, injuries, liabilities, losses or damages of any kind resulting from the retailer's use of the electronic logging system in accordance with this section unless the injury or loss is the result of willful, reckless or intentional misconduct by the retailer. In a civil proceeding in which the retailer's use of an electronic logging system pursuant to this section is an issue, there is a rebuttable presumption of good faith on the part of the retailer.

**7. Political subdivision ordinances.** A political subdivision, as defined in Title 30-A, section 2252, may not adopt an ordinance regulating the sale or purchase of a targeted methamphetamine precursor, and any ordinance that violates this subsection is void and has no force or effect.

**Sec. 5. Electronic logging system.** By August 1, 2012, the Department of Public Safety, Maine Drug Enforcement Agency shall select a real-time electronic logging system to track sales of over-the-counter cold and allergy medications containing targeted methamphetamine precursors of ephedrine, pseudoephedrine or phenylpropanolamine. The system must meet the requirements for an electronic log-

ging system as defined in the Maine Revised Statutes, Title 32, section 13796, subsection 1-A, paragraph A. By September 1, 2012, the Maine Drug Enforcement Agency shall notify retailers which system it has chosen.

See title page for effective date.

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## CHAPTER 585

### S.P. 610 - L.D. 1771

#### An Act To Amend Maine's Gambling Laws

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

**Sec. 1. 8 MRSA §1011, sub-§1-B** is enacted to read:

**1-B. Operation of slot machines for training and educational purposes.** Notwithstanding subsections 1 and 1-A, an accredited postsecondary institution may possess and operate slot machines and table games for the purposes of training and education. Any casino or slot machine training or education program is subject to approval by the board and must conform to criteria established by the board. Wagers used for slot machine and table game training are for demonstration only.

**Sec. 2. 8 MRSA §1013, sub-§3** is enacted to read:

**3. Distribution of table games by licensed slot machine distributor.** The board may accept an application from and issue a table game distributor license to a person who is licensed as a slot machine distributor under subsection 2.

**Sec. 3. 8 MRSA §1013-A, sub-§3** is enacted to read:

**3. Distribution of slot machines by licensed table game distributor.** The board may accept an application from and issue a slot machine distributor license to a person who is licensed as a table game distributor under subsection 2.

**Sec. 4. 8 MRSA §1016, sub-§1**, as amended by IB 2009, c. 2, §33, is further amended to read:

**1. Minimum qualifications.** Notwithstanding Title 5, chapter 341, and in addition to any requirements imposed by rules adopted by the board, a person must satisfy the following qualifications to be a slot machine operator, a casino operator, a slot machine distributor, a table game distributor, a gambling services vendor or an employee of these entities:

A. The person has completed the application form, promptly and truthfully complied with all

information requests of the board and complied with any applicable rules adopted by the board;

B. The person has sufficient financial assets and responsibility to meet any financial obligations imposed by this chapter and, if applying for a slot machine operator license, casino operator license, slot machine operator license renewal or casino operator license renewal, has sufficient financial assets and responsibility to continue operation of a commercial track or casino;

C. The person has not knowingly or recklessly made a false statement of material fact in applying for a license under this chapter or any gambling-related license in any other jurisdiction;

D. In the case of a person applying to be a slot machine operator or casino operator, the person has sufficient knowledge and experience in the business of operating slot machines or casinos to effectively operate the slot machine facilities or casino to which the license application relates in accordance with this chapter and the rules and standards adopted under this chapter;

E. The person has not had a gambling-related license application denied or an adverse action taken against a gambling-related license by authorities in this State or any other jurisdiction. For purposes of this paragraph, "adverse action" includes, but is not limited to, a condition resulting from an administrative, civil or criminal violation, a suspension or revocation of a license or a voluntary surrender of a license to avoid or resolve a civil, criminal or disciplinary action;

F. If the applicant is a business organization, the applicant is organized in this State, although that business organization may be a wholly or partially owned subsidiary of an entity that is organized pursuant to the laws of another state or a foreign country; and

G. The person and all key executives are citizens or permanent residents of the United States.

~~A~~ Except as provided by section 1013, subsection 3 and section 1013-A, subsection 3, a person may not hold more than one class of license under this chapter unless the 2nd license is an employee license under section 1015.

**Sec. 5. 8 MRSA §1018, sub-§1, ¶A**, as amended by PL 2005, c. 663, §7, is further amended to read:

A. ~~The~~ Except for slot machines operated as part of a training and education program as provided by section 1011, subsection 1-B, the initial registration fee for a registered slot machine is \$100. The annual renewal fee is \$100 for each registered slot machine.

**Sec. 6. 8 MRSA §1018, sub-§1, ¶A-1**, as enacted by IB 2009, c. 2, §34, is amended to read:

A-1. The Except for table games operated as part of a training and education program as provided by section 1011, subsection 1-B, the initial registration fee for a registered table game is \$100. The annual renewal fee is \$100 for each registered table game.

**Sec. 7. 8 MRSA §1020, sub-§1**, as enacted by PL 2003, c. 687, Pt. A, §5 and affected by Pt. B, §11, is amended to read:

**1. Registration required.** A slot machine may not be operated or distributed pursuant to this chapter unless the slot machine is registered by the board and the slot machine operator and the slot machine distributor are each licensed by the board or the slot machine is distributed to and operated by an accredited postsecondary institution for the purposes of training and education under section 1011, subsection 1-B.

**Sec. 8. 8 MRSA §1020, sub-§3, ¶A**, as amended by IB 2009, c. 2, §37, is further amended to read:

A. The Except for slot machines used for training and educational purposes at postsecondary institutions as provided by section 1011, subsection 1-B, the total number of slot machines registered in the State may not exceed 3,000; and

**Sec. 9. 8 MRSA §1021, sub-§1**, as enacted by IB 2009, c. 2, §38, is amended to read:

**1. Registration required.** A table game may not be operated or distributed pursuant to this chapter unless the table game is registered by the board and the casino operator and the table game distributor are each licensed by the board or the table game is distributed to and operated by an accredited postsecondary institution for the purposes of training and education under section 1011, subsection 1-B.

**Sec. 10. 8 MRSA §1035**, as amended by IB 2009, c. 2, §43, is further amended to read:

**§1035. Location of slot machines**

Slot machines may be located only on the premises of a commercial track ~~or~~, the premises of a casino or the premises of an accredited postsecondary institution for the purposes of training and education under section 1011, subsection 1-B. For the purposes of this section, "premises of a commercial track" means property owned by the person who owns the property on which a commercial track is located and that is either within 200 feet of the outside edge of the racing oval or, if the commercial track was owned by a municipality when a license to operate slot machines in association with that commercial track was issued, within 2,000 feet of the center of the racing oval.

**Sec. 11. 8 MRSA §1035-A**, as enacted by IB 2009, c. 2, §44, is amended to read:

**§1035-A. Location of table games**

Table games may be located only on the premises of a casino or the premises of an accredited postsecondary institution for the purposes of training and education under section 1011, subsection 1-B.

**Sec. 12. 8 MRSA §1054, sub-§§3 and 4**, as amended by IB 2009, c. 2, §49, are further amended to read:

**3. Operation or distribution without license.** Operates or distributes a slot machine or table game in this State without a license. This subsection does not apply to the operation of a slot machine or table game by an accredited postsecondary institution for the purposes of training and education or the distribution of a slot machine or table game to an accredited postsecondary institution for the purposes of training and education;

**4. Operation or distribution of unregistered slot machine or table game.** Operates or distributes a slot machine or table game that is not registered in this State. This subsection does not apply to the operation of a slot machine or table game by an accredited postsecondary institution for the purposes of training and education or the distribution of a slot machine or table game to an accredited postsecondary institution for the purposes of training and education;

**Sec. 13. 8 MRSA §1055** is enacted to read:

**§1055. Theft at a casino or slot machine facility**

A person is guilty of theft at or from a casino or slot machine facility if that person commits the crime specified in Title 17-A, section 353-A.

**Sec. 14. 17-A MRSA §353-A** is enacted to read:

**§353-A. Theft by unauthorized taking or transfer at a casino or slot machine facility**

**1.** A person is guilty of theft at a casino or slot machine facility if:

A. The person obtains or exercises unauthorized control over the property of another with intent to deprive the other person of the property at or from a casino or slot machine facility as defined by Title 8, section 1001, subsections 5-A and 41. Violation of this paragraph is a Class E crime; or

B. The person violates paragraph A and:

(1) The value of the property is more than \$10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than \$500 but not more than \$1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 or more prior convictions in this State for any combination of the offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the offenses listed in this subparagraph in another jurisdiction. The offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime.

2. As used in this section, "exercises unauthorized control" includes but is not limited to conduct formerly defined or known as common law larceny by trespassory taking, larceny by conversion, larceny by bailee and embezzlement.

**Sec. 15. Rules regarding the regulation of table games adopted prior to January 9, 2012.** Notwithstanding the Maine Revised Statutes, Title 8, section 1003, subsection 4, rules adopted by the Department of Public Safety, Gambling Control Board prior to January 9, 2012 governing the regulation and oversight and monitoring of the operation of table games are valid whether or not they were routine technical rules or major substantive rules as described by Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 586**

**S.P. 543 - L.D. 1644**

**An Act To Expand the Availability of Natural Gas to Maine Residents**

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

**Whereas,** there are energy distribution system projects that will likely move forward within the next 6 months to take advantage of the summer and fall construction seasons; and

**Whereas,** the Finance Authority of Maine will need to implement the provisions of this Act prior to June 2012 to facilitate financing support for energy distribution system projects in 2012; and

**Whereas,** without immediate enactment, this legislation may not take effect in time to affect this year's construction season; and

**Whereas,** the availability of natural gas to large users and other consumers will potentially save tens of millions of dollars per year and losing a construction season and delaying projects will result in a significant lost opportunity; 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. 10 MRSA §962, sub-§2,** as amended by PL 1985, c. 344, §5, is further amended to read:

**2. Revenue obligation securities.** Issue revenue obligation securities to finance eligible projects, except that revenue obligation securities may not be issued for energy distribution system projects after January 1, 2018 pursuant to section 1044, subsection 13;

**Sec. 2. 10 MRSA §963-A, sub-§12,** as amended by PL 2011, c. 261, §1, is further amended to read:

**12. Energy distribution system project.** "Energy distribution system project" means an energy distribution system owned, in whole or in part, by an individual, municipality, corporation or other governmental entity or business association and that uses biomass, peat, solar, waste, water and related dams, wind, wood; or coal or that distributes or transmits oil, biofuels, propane, compressed natural gas, liquefied natural gas or natural gas or that distributes or transmits natural gas.

**Sec. 3. 10 MRSA §1043, sub-§2, ¶O,** as enacted by PL 2011, c. 261, §4, is amended to read:

O. In the case of an energy distribution system project regulated by the Public Utilities Commission with respect to rates or terms of service or that requires, for construction or operation, authorization or certification from the commission, the following conditions are met.

(1) The energy distribution system project has received all authorizations or certifications from the Public Utilities Commission necessary for construction and operation of the project. The authority may issue a certificate of approval for a project that has received conditional approvals or certifications from the commission, except that the authority's certificate becomes legally effective only upon fulfillment of the conditional provisions of the commission's certificates or approvals. If the commission has approved rates to be charged by the project or has issued a certificate of public convenience and necessity for the project, the authority shall take into consideration any findings and conclusions of law of the commission, including any findings and conclusions pertaining to the need for the project and the financial viability of the project.

(2) The authority has reviewed and considered any comments provided by the Director of the Governor's Office of Energy Independence and Security and the Public Advocate.

(3) The authority has determined that the applicant is creditworthy and that there is a reasonable likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. In order to make these determinations, the authority shall consider such factors as it considers necessary and appropriate in light of the special purpose or other nature of the business entity owning the project and the specific purposes of the project to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including, but not limited to:

(a) Whether the individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations and a reasonable probability that those revenues will continue to be available for the term of the revenue obligation securities;

(b) Whether the applicant demonstrates a reasonable probability that the project will continue to operate and provide the public benefits projected to be created for the term of the revenue obligation securities;

(c) Whether the applicant's creditworthiness is demonstrated by factors such as its historical financial performance, management ability, plan for marketing its

product or service and ability to access conventional financing;

(d) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

(e) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority;

(f) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;

(g) Whether the proposed project enhances the opportunities for economic development;

(h) The effect that the proposed project financing has on the authority's financial resources;

(i) The financial performance of similar projects;

(j) The need for the project, as determined by the Public Utilities Commission and as indicated by any comments provided by the Director of the Governor's Office of Energy Independence and Security, other public officials and members of the public;

(k) The nature and extent of customer commitment to use the project or the fuel or energy the project distributes or transmits; ~~and~~

(l) The cost advantages to end users of the fuel or energy to be distributed or transmitted by the project, to the extent those advantages may affect market penetration by the project; ~~and~~

(m) The nature and extent of the applicant's equity contribution to payment of the costs of the project; such a contribution may not be less than 25% of the expected cost of the project.

This paragraph is repealed January 1, 2018.

**Sec. 4. 10 MRSA §1044, sub-§13** is enacted to read:

**13. Limitation.** The authority may not issue revenue obligation securities for energy distribution system projects unless the authority issued a certificate

of approval for the energy distribution system project before January 1, 2018. Notwithstanding this subsection, revenue refunding securities may be issued to refund any outstanding revenue obligation securities.

**Sec. 5. 10 MRSA §1053, sub-§6, ¶A,** as amended by PL 2011, c. 261, §6, is further amended to read:

A. The sum of ~~\$330,000,000~~ \$180,000,000 consisting of not more than ~~\$275,000,000~~ \$150,000,000 for loans and up to ~~\$55,000,000~~ \$30,000,000 for use of bond proceeds to fund capital reserve funds for revenue obligation securities issued pursuant to this subchapter relating to loans for electric rate stabilization projects or loans for energy distribution system projects, ~~except that the authority's maximum financial liability for any energy distribution system project may not exceed the limits established annually by the authority;~~

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

Effective April 4, 2012.

**CHAPTER 587**

**H.P. 1343 - L.D. 1823**

**An Act To Amend the Maine Wild Mushroom Harvesting Certification Program**

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

**Sec. 1. 22 MRSA §2175,** as enacted by PL 2011, c. 412, §2, is amended to read:

**§2175. Maine Wild Mushroom Harvesting Certification Program**

**1. Program established; training approval.** The Maine Wild Mushroom Harvesting Certification Program is established to ensure that properly trained persons harvest, broker and sell wild mushrooms in order to protect public health and the safety of the food supply. The program is administered by the Department of Health and Human Services for the purpose of establishing ~~educational,~~ training and certification requirements for persons who commercially harvest, broker ~~and~~ or sell wild mushrooms in this State. The Commissioner of Health and Human Services shall ~~certify persons duly qualified in the field of wild mushroom harvesting, brokering and selling~~ approve training programs provided by persons or entities outside the department in accordance with the recommendations of the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5.

**2. Certification of wild mushroom harvesters, brokers or sellers.** The Commissioner of Health and Human Services, upon consultation with the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5, shall certify persons, ~~in accordance with the certification requirements developed by the committee pursuant to subsection 5, paragraph B,~~ with appropriate training in mushroom harvesting, brokering ~~and or selling experience~~ to sell, transfer or otherwise deliver wild mushrooms within the State. Certification is valid for a period not to exceed 5 years, unless the Department of Health and Human Services, by rule, establishes another certification period.

**3. Refusal to certify; revocation of certification.** The Department of Health and Human Services may decline to certify any person determined to lack ~~the appropriate experience or ability~~ training to safely harvest, broker or sell wild mushrooms, in accordance with recommendations of the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5 and rules adopted by the Department of Health and Human Services pursuant to this section. The Department of Health and Human Services may revoke, in accordance with the Maine Administrative Procedure Act, the certification of any person in accordance with recommendations of the Maine Wild Mushroom Harvesting Advisory Committee and rules adopted by the Department of Health and Human Services pursuant to this section.

**4. Registry.** The Department of Health and Human Services shall maintain a registry of all applicants for certification and of all certificates issued by the Department of Health and Human Services under this section.

**5. Maine Wild Mushroom Harvesting Advisory Committee.** The Maine Wild Mushroom Harvesting Advisory Committee, as established in Title 5, section 12004-I, subsection 47-H, and referred to in this subsection as "the committee," is governed by the following provisions:

A. The committee consists of the following 12 members:

- (1) The director of the division of environmental health within the Department of Health and Human Services, or the director's designee, who shall serve as a cochair of the committee;
- (2) The director of the division of quality assurance and regulation within the Department of Agriculture, Food and Rural Resources, or the director's designee, who shall serve as a cochair of the committee;
- (3) The president of a statewide mycological association, or the president's designee, appointed by the Governor;

- (4) A representative of a statewide mycological association, appointed by the Governor;
- (5) The Dean of the College of Natural Sciences, Forestry, and Agriculture at the University of Maine, or the dean's designee;
- (6) The director of a northern New England poison control center, or the director's designee, appointed by the Governor;
- (7) A health inspector from the Department of Health and Human Services appointed by the Commissioner of Health and Human Services;
- (8) A representative of a statewide restaurant association, appointed by the Governor;
- (9) One representative of the wild mushroom foragers community, appointed by the Governor;
- (10) One representative of the wild mushroom brokers community, appointed by the Governor;
- (11) A chef or other individual with experience in the commercial preparation of food, appointed by the Governor; and
- (12) A person experienced in the wholesale sale and distribution of food products, appointed by the Governor;
- B. The committee has the following duties:
- (1) To advise the Commissioner of Health and Human Services with respect to the certification of individuals ~~duly qualified by reason of who have completed approved training and experience~~ to engage in the harvesting, brokering ~~and~~ or selling of wild mushrooms in this State; and
- ~~(2) To identify persons to serve as technical and educational advisors in the development and implementation of training programs for individuals seeking certification as wild mushroom harvesters;~~
- ~~(3) To design and establish wild mushroom harvesting training programs for certification pursuant to subsection 2 for the review and approval of the Commissioner of Health and Human Services;~~
- (4) To advise the Commissioner of Health and Human Services with respect to wild mushroom harvesting training programs ~~conducted at least annually~~ and certification; and
- ~~(5) To advise the Commissioner of Health and Human Services with respect to examinations conducted at least annually for those individuals seeking certification pursuant to subsection 2;~~
- C. Each member of the committee serves for a period of 3 years or until the member's successor is appointed. If a member is unable to complete the term, the respective appointing authority shall appoint a person to serve out the remaining portion of the unexpired term;
- D. The committee shall meet at least annually and more frequently if needed to carry out its duties. Meetings may be called by the committee's co-chairs or any other 2 members as is necessary to carry out the committee's duties;
- E. A quorum is a majority of the members of the committee. An affirmative vote of a majority of the members present for a meeting is required for any action;
- F. The Department of Health and Human Services shall provide staff assistance to the committee; and
- ~~G. The Department of Health and Human Services shall reimburse travel expenses of committee members from the Wild Mushroom Harvesting Fund established in subsection 6, if funds are available. Members of the committee serve on a voluntary basis and without compensation.~~
- ~~**6. Wild Mushroom Harvesting Fund.** The Wild Mushroom Harvesting Fund, referred to in this subsection as "the fund," is established within the Department of Health and Human Services as a separate nonlapsing account. The Commissioner of Health and Human Services shall administer the fund on behalf of the Maine Wild Mushroom Harvesting Advisory Committee under subsection 5.~~
- ~~A. All fees assessed pursuant to subsection 7 by the Department of Health and Human Services for training courses, materials and examinations must be deposited into the fund.~~
- ~~B. The Department of Health and Human Services may seek and accept gifts, donations and grants from public or private sources for deposit into the fund to carry out the purposes of this section.~~
- ~~C. The Department of Health and Human Services may use the fund to defray the reasonable costs incurred by the Maine Wild Mushroom Harvesting Advisory Committee in carrying out its duties.~~
- ~~D. The Department of Health and Human Services may use the fund to compensate trainers for providing education and outreach associated with the Maine Wild Mushroom Harvesting Certification Program established in subsection 1.~~

7. ~~Fees. The training, examination and certification fees may not exceed \$20, may be imposed no more than once every 5 years and must be established by the Department of Health and Human Services by rule. Revenues from applicants for certification pursuant to subsection 2 failing the examination must be retained in the Wild Mushroom Harvesting Fund established in subsection 6 must be deposited into a special revenue account dedicated to a health inspection program.~~

8. **Rules.** The Department of Health and Human Services may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,  
DEPARTMENT OF (FORMERLY DHS)**

**Health - Bureau of 0143**

Initiative: Adjusts funding to establish the existing Health Inspection Program in the Department of Health and Human Services as the recipient of certification fees currently deposited in the Wild Mushroom Harvesting Fund.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$500	\$500
<hr/>		
OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500

**Wild Mushroom Harvesting Fund Z128**

Initiative: Adjusts funding to reflect the elimination of the Wild Mushroom Harvesting Fund.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$500)	(\$500)
<hr/>		
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$500)	(\$500)

**HEALTH AND HUMAN  
SERVICES,  
DEPARTMENT OF  
(FORMERLY DHS)**

DEPARTMENT TOTALS	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	\$0	\$0

DEPARTMENT TOTAL - ALL FUNDS	\$0	\$0
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See title page for effective date.

**CHAPTER 588**

**H.P. 1329 - L.D. 1803**

**An Act To Implement the  
Recommendations of the Dig  
Safe Work Group**

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

**Whereas,** the underground facility damage prevention system, established pursuant to the so-called dig safe law, ensures the health and safety of the citizens of the State when excavations are to occur; and

**Whereas,** this Act affects the system; and

**Whereas,** it is important to implement the changes to the system immediately to keep the people involved with the system safe; 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. 23 MRSA §3360-A, sub-§1, ¶D,** as enacted by PL 1979, c. 362, §2, is amended to read:

D. "Person" means an individual, partnership, municipality, state, including an agency or department of the state, county, political subdivision, utility, joint venture or corporation and includes the employer of an individual.

**Sec. 2. 23 MRSA §3360-A, sub-§1, ¶E,** as enacted by PL 1979, c. 362, §2, is amended to read:

E. "Underground facility" means any item of personal property buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, electric energy, oil, gas or other substances and including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, appurtenances and those parts of poles below ground. This definition ~~shall~~ does not include liquefied propane gas dis-

tribution systems that are not included within the scope of 49 Code of Federal Regulations, Part 192 and highway drainage culverts or under drains.

**Sec. 3. 23 MRSA §3360-A, sub-§3, ¶F**, as enacted by PL 2001, c. 577, §5, is amended to read:

F. In the case of an excavation involving subcontractors or other arrangements in which more than one entity qualifies as the excavator under this section, the excavator directly responsible for performing the excavation shall ascertain that all notifications required by this subsection and subsections 5, 5-A and ~~¶ 10-A~~ are performed.

**Sec. 4. 23 MRSA §3360-A, sub-§3, ¶G**, as enacted by PL 2003, c. 373, §2, is amended to read:

G. If an excavator notifies the system and non-member operators as required by this section and is informed by the system and each nonmember operator, including private landowners, that no underground facilities exist in the proposed excavation area, ~~then~~ the excavator is not required to wait the 3 days as required by this subsection and subsection ~~¶ 10-A~~ and may begin excavation immediately.

**Sec. 5. 23 MRSA §3360-A, sub-§5-D**, as enacted by PL 2001, c. 577, §8, is amended to read:

**5-D. Exemption; cemeteries.** An excavator is exempt from the notice requirements of subsection 3 and subsection ~~¶ 10-A~~ for any excavation undertaken within the boundaries of a cemetery if the following procedures are followed.

A. The person responsible for operating the cemetery shall provide notice pursuant to subsections 3 and ~~¶ 10-A~~ identifying the entire cemetery as a potential excavation site. Owners and operators of underground facilities within the cemetery shall mark those facilities in accordance with subsections 4 and ~~¶ 10-A~~, as applicable. Thereafter, the person responsible for operating the cemetery shall maintain sufficient records or markings to identify the location of underground facilities within the cemetery.

B. The person responsible for operating the cemetery shall identify the location of any underground facilities within the excavation area and take appropriate action to avoid damage to the facilities.

**Sec. 6. 23 MRSA §3360-A, sub-§5-E, ¶A**, as enacted by PL 2001, c. 577, §8, is amended to read:

A. The excavator shall provide notice as required by subsections 3 and ~~¶ 10-A~~ and the owner or operator of underground facilities shall respond as required by subsections 4 and ~~¶ 10-A~~.

**Sec. 7. 23 MRSA §3360-A, sub-§5-I, ¶¶B and C**, as enacted by PL 2011, c. 72, §4, are amended to read:

B. Except as provided in paragraph C, an excavator is exempt from the notice requirements of subsection 3 and subsection ~~¶ 10-A~~ when undertaking an excavation within a quarry or borrow pit lawfully located on March 1, 2011.

C. An excavator undertaking an excavation within a quarry or borrow pit lawfully located after March 1, 2011 or lawfully expanded after March 1, 2011 is governed by the following.

(1) The owner or operator of the quarry or borrow pit shall provide notice pursuant to subsections 3 and ~~¶ 10-A~~ identifying the entire area potentially subject to excavation.

(2) Owners and operators of underground facilities in the area identified pursuant to subparagraph (1) shall mark those facilities in accordance with subsections 4 and ~~¶ 10-A~~, as applicable. Thereafter, the owner or operator of the quarry or borrow pit shall maintain sufficient records or markings to identify the location of underground facilities within the area identified pursuant to subparagraph (1) and an excavator undertaking an excavation in that area is exempt from any further notice requirements under subsection 3 and subsection ~~¶ 10-A~~.

(3) The owner or operator of the quarry or borrow pit shall take appropriate action to avoid damage to the underground facilities identified pursuant to subparagraph (2).

**Sec. 8. 23 MRSA §3360-A, sub-§5-K** is enacted to read:

**5-K. Exemption; unpaved private road grading.** A person is exempt from the requirements of this section for any grading activities undertaken on private roads that meet the following criteria:

A. The grading activities are limited to the shaping, maintaining or scraping of a road surface or road shoulder to allow for proper drainage; and

B. The depth of the grading activities is no deeper than 6 inches as measured from the road surface or shoulder of the road surface prior to the commencement of those grading activities.

**Sec. 9. 23 MRSA §3360-A, sub-§6-C**, as amended by PL 2011, c. 72, §6, is further amended to read:

**6-C. Penalties.** In an adjudicatory proceeding, the Public Utilities Commission may, in accordance with this subsection, impose an administrative penalty ~~for any violation of~~ on any person who violates this subsection. The administrative penalty may not ex-

ceed \$500, except that, if the person has been found in violation of this subsection within the prior 12 months, the administrative penalty may not exceed \$5,000. Administrative penalties imposed pursuant to this subsection are in addition to any other remedies or forfeitures provided by law and any liability that may result from the act or omission constituting the violation. Before imposing any penalties under this subsection, the commission shall consider evidence of the record of the violator, including, to the extent applicable, the number of successful excavations undertaken by the violator or the number of locations successfully marked by the violator during the prior 12 months. The commission may require a person who violates any provision of this section to participate, at the expense of the violator, in an educational program developed and conducted by the system.

The Public Utilities Commission may impose administrative penalties for any of the following violations:

- A. Failure of an excavator to give notice of an excavation as required under subsection 3, except to the extent the excavator is exempt from the provisions of subsection 3 pursuant to other provisions of this section;
- B. Excavation by an excavator in a reckless or negligent manner that poses a threat to an underground facility;
- C. Excavation by an excavator that does not comply with the requirements of subsection 4-C, except to the extent the excavator is exempt from the provisions of subsection 4-C pursuant to subsection 5-C;
- D. Failure of an underground facility operator to mark the location of the operator's underground facilities within the time limits required by subsection 4;
- E. Marking by an underground facility operator of the location of an underground facility in a reckless or negligent manner; or
- F. Failure of an excavator to comply with the requirements of subsection 5-C, 5-D, 5-E, 5-I or 5-J.

The commission shall establish by rule standards for when and at what level penalties must be assessed under this subsection. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 10. 23 MRSA §3360-A, sub-§10**, as enacted by PL 1991, c. 437, §10 and affected by §12, is repealed.

**Sec. 11. 23 MRSA §3360-A, sub-§10-A** is enacted to read:

**10-A. Further notice requirements.** The following provisions govern excavations in areas where there are underground facilities owned or operated by

a person who is not an underground facility operator and who is not a voluntary member of the system established under subsection 1-A.

A. In addition to other notice requirements under this section and except for an employee with respect to that employee's employer's facility, an excavator shall notify any person who is not a member of the system and has underground facilities in the area of the proposed excavation. This notice must be in writing or in person.

B. If the underground facilities are located on private property and are owned and operated by the owner of that property:

(1) That landowner may mark the underground facilities in accordance with paragraph D;

(2) The excavator may wait 3 business days from the date of notification to commence the excavation or may commence the excavation upon notification;

(3) If the excavator waits 3 business days from the date of notification or until after the underground facilities are marked, if sooner, to commence excavation or if the markings made by the landowner pursuant to subparagraph (1) fail to identify the location of the underground facilities in accordance with paragraph D, an excavator damaging or injuring underground facilities is not liable for any damage or injury caused by the excavation, except on proof of negligence; and

(4) If the excavator does not wait until the underground facilities are marked or 3 business days from the date of notification to commence excavation, whichever occurs earlier, the excavator is liable for all damages to the underground facilities as a result of the excavation.

C. If the underground facilities are located on private or public land and are owned and operated by a person other than the owner of the property where the excavation is to occur:

(1) The person who owns or operates the underground facilities shall mark the underground facilities in accordance with paragraph D; and

(2) The excavator shall wait until the underground facilities are marked or 3 business days from the date of notification, whichever occurs earlier, before commencing the excavation.

If an excavator complies with paragraph A and subparagraph (2) and if information pursuant to paragraph D is not provided within the time speci-

fied or if the information provided does not identify the location of the underground facilities in accordance with paragraph D, an excavator damaging or injuring underground facilities is not liable for any damage or injury caused by the excavation, except on proof of negligence.

D. A person who marks underground facilities under this subsection shall mark the location and size of the underground facilities in the proposed excavation area by marking the location of the facilities with stakes, with paint or by any other identifiable markings within 36 inches horizontally from the exterior sides of the underground facilities and if the depth is known the depth of the underground facilities. The person providing information shall respond no later than 2 full business days after receipt of the notice. It is the responsibility of the excavator to maintain those location markings until the excavations are completed.

**Sec. 12. Convene a "dig safe" work group.**

The Public Advocate shall convene a work group, referred to in this section as "the work group," to examine, improve and enhance the underground facility damage prevention system established in the Maine Revised Statutes, Title 23, section 3360-A, subsection 1-A and referred to in this section as "the damage prevention system."

**1. Chair.** The Public Advocate shall serve as the chair of the work group.

**2. Membership.** When appointing members, the Public Advocate shall consider a fair representation of members and nonmembers of the damage prevention system. The work group consists of 23 members as follows:

A. Twenty-two persons appointed by the Public Advocate:

(1) Two persons who are municipal public works officials, one of whom is from a municipality with a large population and one from a municipality with a small population. The Public Advocate shall consider any recommendations for appointments under this subparagraph submitted by the Maine Municipal Association;

(2) Three persons who are builders or contractors who conduct business in geographically diverse areas of the State. The Public Advocate shall consider any recommendations for appointments under this subparagraph submitted by the Associated Builders and Contractors of Maine;

(3) Three persons who are general contractors who conduct business in geographically diverse areas of the State. The Public Advocate shall consider any recommendations for appoint-

ments under this subparagraph submitted by the Associated General Contractors of Maine;

(4) One person with expertise in the damage prevention system who does not represent an active excavator or underground facility operator. The Public Advocate shall consider any person with appropriate expertise who submits a request to be appointed under this subparagraph;

(5) Two persons who represent quasi-municipal water or sewer utilities, one of whom represents a small utility and one of whom represents a large utility. The Public Advocate shall consider any recommendation for the person to represent a small utility submitted by the Maine Rural Water Association. The Public Advocate shall consider any recommendation for the person to represent a large utility submitted by the Maine Water Utilities Association;

(6) Two persons who represent telephone utilities, one of whom represents a small rural telephone utility and one of whom represents a large telephone utility. The Public Advocate shall consider any recommendations for appointments under this subparagraph submitted by the Telephone Association of Maine;

(7) One person representing cable television service providers in the State;

(8) Two persons representing owners or operators of underground fuel facilities. The Public Advocate shall consider any recommendations for appointments under this subparagraph submitted by the Maine Energy Marketers Association;

(9) One person representing the owner or operator of a natural gas pipeline;

(10) One person representing investor-owned transmission and distribution utilities;

(11) One person representing consumer-owned transmission and distribution utilities;

(12) One person who represents the Dig Safe system. The Public Advocate shall consider any recommendations for appointments under this subparagraph submitted by Dig Safe System, Inc.; and

(13) Two municipal officials or persons representing municipal officials; and

B. The Public Advocate.

**3. Convening.** The Public Advocate shall convene the work group no later than 60 days following the effective date of this section.

**4. Duties.** The work group, in consultation with the Public Utilities Commission, shall examine ways

to facilitate the creation of a centralized one-call system to notify the operators of underground facilities of pending excavations. This examination must include, but is not limited to:

- A. Creating a new apportionment of the costs of membership in the damage prevention system so that members could pay a flat fee for each notification of pending excavation;
- B. Authorizing an operator who is not a member of the damage prevention system to be subject to administrative penalties for violations of Title 23, section 3360-A;
- C. Requiring an operator who is not a member of the damage prevention system to maintain insurance when an excavator is working on that operator's underground facilities;
- D. Identifying appropriate tolerance zones for marking different types of underground facilities;
- E. Developing a process for the commission to keep records of successful markings or excavations completed by members of the damage prevention system; and
- F. Evaluating the need for an ongoing advisory board to provide input to the commission regarding the damage prevention system. The work group shall consider staffing requirements, membership, funding and the scope of responsibility for the advisory board.

**5. Staff assistance.** To the extent possible within existing resources, the Public Advocate and the Public Utilities Commission shall provide necessary staffing services to the work group.

**6. Report.** No later than January 15, 2013, the Public Utilities Commission and the Public Advocate shall jointly submit a report to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters that includes all findings and recommendations of the work group that are supported by at least 2/3 of the appointed members of the work group. The commission shall submit to the First Regular Session of the 126th Legislature by January 15, 2013 any legislation necessary to carry out the recommendations of the work group and provisionally adopted rules pursuant to Title 23, section 3360-A, subsection 13 necessary to carry out the recommendations of the work group.

**Sec. 13. Rule adoption.** Final adoption of portions of Chapter 895: Underground Facility Damage Prevention Requirements, a provisionally adopted major substantive rule of the Public Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the commission:

- 1. Modifies the notification requirements of excavators to notify private property owners that own and operate underground facilities on their property in accordance with this Act;
- 2. Requires a 36-inch tolerance zone for marking underground facilities operated by nonmember operators;
- 3. Removes the requirement that the commission include the number of excavations and markings by a respondent in the past 12 months that did not result in a violation of the so-called dig safe law or rules on a notice of enforcement investigation;
- 4. Permits a respondent to request an adjudicatory hearing only after an informal review and requires that the commission approve any request by a respondent to waive the informal review; and
- 5. Corrects a cross-reference to the definition of an underground facility operator in section 6 of the rule.

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

Effective April 4, 2012.

**CHAPTER 589**

**H.P. 1369 - L.D. 1851**

**An Act To Amend the Laws  
Concerning Municipal  
Inspections of Establishments**

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

**Sec. 1. 22 MRSA §2499, first ¶**, as amended by PL 2011, c. 193, Pt. B, §9 and c. 295, §1, is repealed and the following enacted in its place:

Notwithstanding any other provisions of this chapter, in order to ensure statewide uniformity in health standards, health inspector certification and the maintenance of inspection report records, a municipality must have been delegated authority by the department to conduct inspections and demonstrated adherence to requirements under this section prior to performing any municipal inspections under such authority. Any municipal inspection of an establishment under this section conducted by a municipality that has not been delegated authority is void. The department may issue a license to an establishment as defined in section 2491 on the basis of an inspection performed by a health inspector who works for and is compensated by the municipality in which such an establish-

ment is located, but only if the following conditions have been met.

See title page for effective date.

## CHAPTER 590

### H.P. 1387 - L.D. 1875

#### An Act To Provide Transparency in Electricity Pricing for Maine Ratepayers

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

**Sec. 1. 35-A MRSA §102, sub-§24** is enacted to read:

**24. Zero-based budgeting.** "Zero-based budgeting" means a method of budgeting in which programs and activities are justified for a budgetary period using cost-benefit analysis without regard to the amount that was budgeted for those programs and activities in a prior budgetary period.

**Sec. 2. 35-A MRSA §116, sub-§2**, as amended by PL 2007, c. 16, §2, is further amended to read:

**2. Committee recommendations; legislative approval of budget.** The commission shall submit its budget recommendations, using a zero-based budgeting process or other process or method directed by the State Budget Officer, as part of the unified current services budget legislation in accordance with Title 5, sections 1663 to 1666. The commission shall make a presentation of its budget recommendations contained in any current services budget legislation and any supplemental budget legislation to the joint standing committee of the Legislature having jurisdiction over public utilities matters. The joint standing committee of the Legislature having jurisdiction over public utilities matters shall review the commission's recommendations and make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs regarding the budget of the commission, including but not limited to all expenditures from the fund established pursuant to this section. The commission shall make an annual report in accordance with section 120 of its planned expenditures for the year and on its use of funds in the previous year. In addition to the assessments authorized under this section, the commission may also receive other funds as appropriated or allocated by the Legislature.

**Sec. 3. 35-A MRSA §116, sub-§8, ¶A**, as amended by PL 1997, c. 424, Pt. B, §5, is further amended to read:

A. The Public Advocate shall submit its budget recommendations, using a zero-based budgeting process or other process or method directed by the State Budget Officer, as part of the unified current services budget legislation in accordance with Title 5, sections 1663 to ~~1665~~ 1666. The assessments and expenditures provided in this section are subject to legislative approval. The Public Advocate shall make an annual report of its planned expenditures for the year and on its use of funds in the previous year. The Public Advocate may also receive other funds as appropriated by the Legislature.

**Sec. 4. Transparency in electricity rates and assessments.** The Public Utilities Commission shall develop information useful to electricity ratepayers regarding the costs and effects of state policies on electricity ratepayers. The commission and the Office of the Public Advocate shall post the information on their publicly accessible websites. The commission shall also examine means by which transmission and distribution utilities may inform customers of the information developed and posted by the commission. The commission shall report on its actions under this section together with any recommendations to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by February 15, 2013. The committee may report out a bill relating to the commission's report to the First Regular Session of the 126th Legislature.

See title page for effective date.

## CHAPTER 591

### H.P. 1368 - L.D. 1847

#### An Act To Establish Municipal Cost Components for Unorganized Territory Services To Be Rendered in Fiscal Year 2012-13

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

**Whereas**, prompt determination and certification of the municipal cost components in the Unorganized Territory Tax District are necessary to the establishment of a mill rate and the levy of the Unorganized Territory Educational and Services Tax; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

**Sec. 1. Municipal cost components for services rendered.** In accordance with the Maine Revised Statutes, Title 36, chapter 115, the Legislature determines that the net municipal cost component for services and reimbursements to be rendered in fiscal year 2012-13 is as follows:

Audit - Fiscal Administration	\$208,111
Education	11,858,597
Forest Fire Protection	150,000
Human Services - General Assistance	58,000
Property Tax Assessment - Operations	900,618
Maine Land Use Regulation Commission - Operations	531,811
<b>TOTAL STATE AGENCIES</b>	<b>\$13,707,137</b>

County Reimbursements for Services:

Aroostook	\$973,192
Franklin	839,845
Hancock	158,145
Kennebec	6,626
Oxford	866,635
Penobscot	976,973
Piscataquis	948,372
Somerset	1,388,233
Washington	835,934
<b>TOTAL COUNTY SERVICES</b>	<b>\$6,993,955</b>

<b>TOTAL REQUIREMENTS</b>	<b>\$20,701,092</b>
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COMPUTATION OF ASSESSMENT

Requirements	\$20,701,092
Less Deductions:	
General -	
State Revenue Sharing	\$195,764

Homestead Reimbursement	90,954
Miscellaneous Revenues	150,000
Transfer from undesignated fund balance	2,000,000
<b>TOTAL</b>	<b>\$2,436,718</b>
Educational -	
Land Reserved Trust	\$56,915
Tuition/Travel	101,622
Miscellaneous	20,000
Special - Teacher Retirement	191,943
<b>TOTAL</b>	<b>\$370,480</b>
<b>TOTAL DEDUCTIONS</b>	<b>\$2,807,198</b>
<b>TAX ASSESSMENT</b>	<b>\$17,893,894</b>

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

Effective April 4, 2012.

**CHAPTER 592**

**S.P. 660 - L.D. 1883**

**An Act To Clarify the Regulation of Private Natural Gas Pipelines**

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

**Sec. 1. 35-A MRSA §4517, sub-§1,** as enacted by PL 2011, c. 110, §1, is repealed and the following enacted in its place:

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Affiliated compression or liquefaction facility" means a facility that is used to liquefy or compress natural gas for sale or distribution to others by means other than a pipeline and that is owned or operated by an affiliate of the owner of a private natural gas pipeline.

B. "Private natural gas pipeline" means a pipeline that is used solely for the transport of natural gas to a single customer and is owned by the customer and whose owner or operator is not otherwise

regulated by the commission as a natural gas pipeline utility or gas utility. For purposes of this paragraph, "customer" includes an affiliate of a customer.

**Sec. 2. 35-A MRSA §4517, sub-§§2 and 3,** as enacted by PL 2011, c. 110, §1, are amended to read:

**2. Safety regulation.** The commission may exercise safety regulation over an entity that owns or operates a private natural gas pipeline on public land or land owned by a 3rd party, notwithstanding that the entity is not a public utility. The commission may exercise safety regulation over the owner or operator of an affiliated compression or liquefaction facility, notwithstanding that the owner or operator is not a public utility. Safety regulation under this subsection may be enforced as provided in sections 4515 and 4516-A.

**3. Approval of construction.** A private natural gas pipeline or affiliated compression or liquefaction facility may not be constructed without approval of the commission. When requesting approval, the entity that owns or operates a private natural gas pipeline or affiliated compression or liquefaction facility shall submit to the commission information concerning the engineering design of the pipeline or affiliated compression or liquefaction facility and the standards of construction the entity proposes to follow and any other information the commission determines necessary to make a determination of whether to approve construction. The commission shall approve the construction if the commission determines that the standards of construction of the pipeline or affiliated compression or liquefaction facility adequately protect the safety of the public.

**Sec. 3. 35-A MRSA §4517, sub-§5** is enacted to read:

**5. Sale by affiliate of liquefied natural gas or compressed natural gas.** The owner or operator of a private natural gas pipeline that delivers natural gas to its affiliate that then liquefies or compresses the natural gas for sale or distribution to others by means other than by a pipeline is not, as a result of the delivery, considered a public utility. The owner or operator of an affiliated compression or liquefaction facility is not considered a public utility if the owner or operator is not otherwise regulated by the commission as a public utility.

See title page for effective date.

## CHAPTER 593

### S.P. 539 - L.D. 1629

#### An Act To Allow for a Contingency Fee Agreement with a MaineCare Program Integrity Recovery Audit Contractor

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

**Whereas,** the detection of errors in reimbursement and the collection of overpayments and correction of underpayments for services in the MaineCare program within the Department of Health and Human Services are critical to the integrity of the program and to compliance with the requirements of federal law; and

**Whereas,** initiating the services of a recovery audit contractor for the MaineCare program in a timely manner is important to the fiscal integrity of the program and to compliance with federal law; 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. 22 MRSA §13-A** is enacted to read:

#### **§13-A. MaineCare program integrity recovery audit contractor agreement**

Notwithstanding any other provision of law to the contrary, the provisions of this section apply to MaineCare program integrity recovery audit contracting. The department may enter into an agreement with a recovery audit contractor for the purpose of ensuring MaineCare program integrity, specifically to identify and reimburse to correct underpayments and to identify and recoup overpayments under the Medicaid state plan and under any waiver of the state plan. An agreement entered into under this section must provide that payment to the contractor may be made only from amounts recovered and that payments for identifying underpayments and collecting overpayments must be made on a contingent fee basis. After payments to correct underpayments and payment of any contingent fees due to the contractor, the proceeds of collections from overpayments must be deposited into the Medi-

cal Care - Payments to Providers program, Other Special Revenue Funds account in the Department of Health and Human Services for the purpose of providing state match under the federal Medicaid program.

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

Effective April 5, 2012.

**CHAPTER 594**

**S.P. 656 - L.D. 1877**

**An Act To Clarify Authorized Associations of Veterinary Practice**

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

**Whereas,** it is essential to immediately modernize the Maine Veterinary Practice Act so that veterinarians can continue to provide vital services to Maine businesses in our emerging industries, including aquaculture and bioscience, helping to support innovation in new technologies; 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. 32 MRSA §4864, sub-§12,** as amended by PL 2007, c. 402, Pt. R, §8, is further amended to read:

**12. Unauthorized associations.** A veterinarian may practice only in an individual capacity under that veterinarian's own name or in association with a licensed practitioner of veterinary medicine or professional association. Notwithstanding paragraph A, for purposes of this subsection, a veterinarian who has an employment relationship with a corporation or other legal entity that provides a continuum of veterinary services and treatment, including, but not limited to, diagnostic laboratory, research and development services and health and import and export certification, is considered to be lawfully practicing under that veterinarian's own name as long as that veterinarian is individually accountable for conduct under that veterinarian's license. The following are deemed unauthorized associations:

A. ~~Association~~ Except as otherwise provided in this subsection, association for the joint practice of veterinary medicine with any person, corporation or partnership not licensed to practice veterinary medicine;

B. Knowingly aiding and abetting in the practice of veterinary medicine any person not licensed to practice in this State;

C. The lending, leasing or in any other manner placing of one's license at the disposal of or in the service of any other person not licensed to practice veterinary medicine in this State; and

D. The continuance of a veterinarian directly or indirectly in the employ of or in association with any veterinarian after knowledge that such veterinarian is engaged in the violation of the provisions of this chapter; or

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

Effective April 5, 2012.

**CHAPTER 595**

**H.P. 1401 - L.D. 1899**

**An Act To Implement the Recommendations of the Joint Standing Committee on Education and Cultural Affairs after Its Review of the Maine Health and Higher Educational Facilities Authority Pursuant to the State Government Evaluation Act**

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

**Sec. 1. 20-A MRSA c. 418,** as amended, is repealed.

See title page for effective date.

**CHAPTER 596**

**H.P. 1402 - L.D. 1900**

**An Act To Support Members of the Law Enforcement Community Who Have Suffered a Catastrophic Illness**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergencies; and

**Whereas**, allowing law enforcement officers to solicit funds from within the entire law enforcement community will provide urgently needed resources to support law enforcement officers or their family members with serious medical needs; 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. 25 MRSA §3702-C, sub-§1**, as enacted by PL 2007, c. 633, §4, is amended to read:

**1. Limited solicitation.** A law enforcement agency or association may solicit property from the general public, a law enforcement officer, a law enforcement agency or a law enforcement association for the tangible benefit of a law enforcement officer, or an immediate family member of a law enforcement officer, suffering from a catastrophic illness by hosting fundraising events or by written solicitation.

A. A law enforcement agency or association may host ticketed fundraising events that are open to the public as long as the events are advertised only through public announcements and tickets are available for purchase only from a designated public benefit corporation.

B. A law enforcement agency or association may make general public solicitations for donations through public announcements or paid advertisements as long as all donations are directed to be sent to a designated public benefit corporation. Solicitations may not be sent directly to potential donors by mail or any other direct means.

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

Effective April 5, 2012.

**CHAPTER 597**

**S.P. 572 - L.D. 1673**

**An Act To Prohibit the Sexual Solicitation of a Child by any Means**

**Emergency preamble.** **Whereas**, acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergencies; and

**Whereas**, this legislation closes a loophole in the law prohibiting sexual solicitation of a child; 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 §5821, sub-§7-A**, as enacted by PL 1999, c. 349, §2, is amended to read:

**7-A. Computers.** Except as provided in paragraph A, all computers, as defined in Title 17-A, section 431, subsection 2, and computer equipment, including, but not limited to, printers and scanners, that are used or are attempted to be used in violation of Title 17-A, section ~~259~~ 259-A.

A. Property may not be forfeited under this subsection, to the extent of the interest of an owner, by reason of an act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner; and

**Sec. 2. 17-A MRSA §259**, as amended by PL 2003, c. 711, Pt. B, §§9 to 11, is repealed.

**Sec. 3. 17-A MRSA §259-A** is enacted to read:

**§259-A. Solicitation of a child to commit a prohibited act**

**1. A person is guilty of soliciting a child to commit a prohibited act if:**

A. The actor, with the intent to engage in a prohibited act with the other person, knowingly solicits directly or indirectly that person by any means to engage in a prohibited act and the actor:

(1) Is at least 16 years of age;

(2) Knows or believes that the other person is less than 14 years of age; and

(3) Is at least 3 years older than the age expressed by the other person.

Violation of this paragraph is a Class D crime; or

B. The actor, with the intent to engage in a prohibited act with the other person, knowingly solicits directly or indirectly that person by any means to engage in a prohibited act and the actor:

(1) Is at least 16 years of age;

(2) Knows or believes that the other person is less than 12 years of age; and

(3) Is at least 3 years older than the age expressed by the other person.

Violation of this paragraph is a Class C crime.

2. For purposes of this section, "prohibited act" means:

A. A sexual act;

B. Sexual contact; or

C. Sexual exploitation of a minor pursuant to section 282.

**Sec. 4. 19-A MRSA §1653, sub-§6-A, ¶A,** as amended by PL 2007, c. 513, §2, is further amended to read:

A. For the purposes of this section, "child-related sexual offense" means the following sexual offenses if, at the time of the commission of the offense, the victim was under 18 years of age:

(1) Sexual exploitation of a minor, under Title 17-A, section 282;

(2) Gross sexual assault, under Title 17-A, section 253;

(3) Sexual abuse of a minor, under Title 17-A, section 254;

(4) Unlawful sexual contact, under Title 17-A, section 255-A or former section 255;

(5) Visual sexual aggression against a child, under Title 17-A, section 256;

(6) Sexual misconduct with a child under 14 years of age, under Title 17-A, section 258;

(6-A) Solicitation of a child ~~by computer~~ to commit a prohibited act, under Title 17-A, section ~~259~~ 259-A; or

(7) An offense in another jurisdiction that involves conduct that is substantially similar to that contained in subparagraph (1), (2), (3), (4), (5), (6) or (6-A). For purposes of this subparagraph, "another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states except Maine. "Another jurisdiction" also means the Passamaquoddy Tribe when that tribe has acted pursuant to Title 30, section 6209-A, subsection 1, paragraph A or B and the Penobscot Nation when that tribe has acted pursuant to Title 30, section 6209-B, subsection 1, paragraph A or B.

**Sec. 5. 25 MRSA §1574, sub-§5,** as corrected by RR 2003, c. 1, §23, is amended to read:

**5. Applicable offenses for persons convicted on or after October 1, 2001.** This Except as provided in paragraph G-1, this section applies to a person convicted on or after October 1, 2001 of one or more of the following offenses or an attempt of one or more of the following offenses:

A. Murder;

B. A Class A, B or C crime;

C. Sexual abuse of a minor;

D. Unlawful sexual contact;

E. Visual sexual aggression against a child;

F. Sexual contact with a child under 14 years of age;

G. Solicitation of a child by a computer to commit a prohibited act; ~~or~~

G-1. Solicitation of a child to commit a prohibited act on or after October 1, 2012; or

H. Any lesser included offense of any crime identified in paragraphs A to G if the greater offense is initially charged. "Lesser included offense" has the same meaning as in Title 17-A, section 13-A.

**Sec. 6. 34-A MRSA §11203, sub-§6, ¶B,** as amended by PL 2009, c. 365, Pt. B, §10 and affected by §22, is further amended to read:

B. A violation under former Title 17, section 2922; former Title 17, section 2923; former Title 17, section 2924; Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; former Title 17-A, section 255, subsection 1, paragraph A, E, F, G, I or J; former Title 17-A, section 255, subsection 1, paragraph B or D if the crime was not elevated a class under former Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, G, I, J, K, L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; ~~former~~ Title 17-A, section 259; Title 17-A, section 282; Title 17-A, section 283; Title 17-A, section 284; Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3), unless the actor is a parent of the victim; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855;

**Sec. 7. 34-A MRSA §11203, sub-§6-B** is enacted to read:

**6-B. Sex offense; after October 1, 2012.** For persons convicted and sentenced on or after October 1, 2012, "sex offense" means, in addition to the offenses listed in subsections 6 and 6-A:

A. A conviction for an offense under Title 17-A, section 259-A or for an attempt or conspiracy to commit an offense under Title 17-A, section 259-A;

B. A violation in another jurisdiction that includes the essential elements of an offense listed under Title 17-A, section 259-A; or

C. A conviction for a military, tribal or federal offense requiring registration pursuant to:

(1) The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or

(2) The Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248.

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

Effective April 6, 2012.

**CHAPTER 598**

**S.P. 587 - L.D. 1722**

**An Act To Make Technical Changes to Maine's Marine Resources Laws**

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

**Whereas,** this legislation provides an exemption for the Aroostook Band of Micmacs for commercial marine resource harvesting licenses; and

**Whereas,** because the commercial marine resource harvesting seasons are currently open or soon to open, it is essential that this exemption take effect 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-I, sub-§57-C,** as repealed by PL 2011, c. 344, §10, is reenacted to read:

**57-C.**

Marine Resources	Aquaculture Advisory Council	Not Authorized	12 MRSA §6080
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**Sec. 2. 12 MRSA §6001, sub-§1-A,** as enacted by PL 1981, c. 63, is repealed.

**Sec. 3. 12 MRSA §6001, sub-§37-B** is enacted to read:

**37-B. River herring.** "River herring" means the species *Alosa pseudoharengus*, commonly called alewife, and *Alosa aestivalis*, commonly called blueback herring.

**Sec. 4. 12 MRSA §6022, sub-§17,** as enacted by PL 2011, c. 10, §1, is amended to read:

**17. Permit banking program.** The commissioner may administer a permit banking program in which the department holds federal limited access fishing permits and distributes the rights associated with those permits to eligible residents of the State with the goal of restoring and preserving access to federally managed fisheries. The commissioner may lease fisheries allocations, as required, to fund the costs associated with the permit banking program and may use funds in excess of those needed to administer the program to provide assistance to groundfish sectors consistent with the goals of the program.

**Sec. 5. 12 MRSA §6030, sub-§2,** as amended by PL 2003, c. 520, §1, is repealed.

**Sec. 6. 12 MRSA §6032-A** is enacted to read:

**§6032-A. Marine Recreation Fishing Conservation and Management Fund**

**1. Fund established.** The Marine Recreation Fishing Conservation and Management Fund, referred to in this section as "the fund," is established within the department. The commissioner may receive on behalf of the fund funds from any source. All money received into the fund must be used for the purposes of the fund under subsection 2. Unexpended balances in the fund at the end of the fiscal year do not lapse but must be carried forward to the next fiscal year to be used for the purposes of the fund. Any interest earned on the money in the fund must be credited to the fund.

**2. Uses of fund.** The commissioner may authorize the expenditure of money from the fund for research and conservation efforts related to the saltwater recreational fishery.

**Sec. 7. 12 MRSA §6072-D, sub-§5,** as enacted by PL 2003, c. 660, Pt. A, §16, is amended to read:

**5. Reports.** ~~On or before February 1st of each year, the~~ The commissioner shall report annually to

the joint standing committee of the Legislature having jurisdiction over marine resources matters Aquaculture Advisory Council under section 6080 on all expenditures made from the fund in the previous fiscal year and a summary of work accomplished and planned.

**Sec. 8. 12 MRSA §6078-A, sub-§5**, as enacted by PL 2003, c. 247, §19, is repealed.

**Sec. 9. 12 MRSA §6080**, as repealed by PL 2011, c. 344, §19, is reenacted to read:

**§6080. Aquaculture Advisory Council**

**1. Appointment; composition.** The Aquaculture Advisory Council, referred to in this section as the "council" and established by Title 5, section 12004-I, subsection 57-C, consists of 5 members. The commissioner or the commissioner's designee is a nonvoting, ex officio member of the council. The commissioner shall appoint 4 members from the State's aquaculture industry. No more than 2 of the appointed members may represent similar segments of the State's aquaculture industry.

**2. Term.** Council members serve for 3 years and continue serving until a successor is duly appointed and qualified. In the case of a vacancy, the commissioner shall promptly fill the vacancy.

**3. Purpose.** The council shall make recommendations to the commissioner concerning expenditures from the Aquaculture Management Fund for the purposes described under section 6072-D and concerning other matters of interest to the aquaculture industry.

**4. Chair and officers.** The council annually shall choose one of its members to serve as chair for a one-year term. The council may select other officers and designate their duties.

**5. Meetings.** The council shall meet at least once each year. It may also meet at other times at the call of the chair or the chair's designee or the commissioner or the commissioner's designee. The council may conduct a meeting by means of a conference call linking 2 or more members of the council.

**Sec. 10. 12 MRSA §6121, sub-§1**, as repealed and replaced by PL 1983, c. 388, §1, is amended to read:

**1. Commissioner's authority.** In order to conserve, develop or restore anadromous fish resources, the commissioner may require a fishway to be erected, maintained, repaired or altered by the owners, lessors or other persons in control of any dam or other artificial obstruction within coastal waters frequented by alewives river herring, shad, salmon, sturgeon or other anadromous fish species.

**Sec. 11. 12 MRSA §6131**, as amended by PL 2009, c. 17, §§1 to 4, is further amended to read:

**§6131. River herring fishing rights**

The commissioner is authorized to develop, manage or lease ~~alewife~~ river herring fishing rights as follows.

**1. River herring rights.** The commissioner shall grant the right, exclusive or otherwise, to take ~~alewives~~ river herring to any municipality entitled to those rights on January 1, 1974 and may grant the right to take ~~alewives~~ river herring to any other municipality provided:

A. Any municipality that has had the right to take ~~alewives~~ river herring, exclusive or otherwise, or is granted that right by the commissioner, shall take action through its legislative body and file a copy of this action with the commissioner prior to April 20th or lose that right for the remaining part of that year;

B. Municipal rights that are not exercised for 3 consecutive years lapse;

C. At its annual meeting the municipality may determine by vote:

(1) Whether ~~alewife~~ river herring fishing will be operated by the municipality through the municipal officers or a committee; and

(2) Whether the municipal rights to take ~~alewives~~ river herring will be sold by the municipal officers or committee; and

D. Harvesting plans ~~shall~~ must be developed as follows.

(1) Any municipality engaged in harvesting ~~alewives~~ river herring shall submit a written harvesting plan to the commissioner prior to April 20th of each calendar year. All harvesting plans ~~shall~~ must set forth in detail the exact conditions under which ~~alewives~~ river herring may be taken, all in accordance with good conservation practices.

(2) The commissioner, after consultation with the appropriate municipal officers, shall approve or modify the harvesting plan as ~~he deems~~ the commissioner determines necessary for the conservation of ~~alewives~~ river herring and other anadromous fish, and shall file a copy of the approved plan with the clerk of the municipality.

**2. Limitations.** The following limitations apply to any grant.

A. It is unlawful to take ~~alewives~~ river herring from 6 a.m. each Thursday morning until 6 a.m. Sunday morning. Municipalities that make other provisions for escape of spawning ~~alewives~~, which river herring that are approved by the commissioner; are exempt from this limit.

B. It ~~shall be~~ is unlawful for any municipality or purchaser or lessee of the municipal right to take alewives river herring in any manner except as provided in the approved alewife river herring harvesting plan.

**3. Closed period in rivers and streams not under lease agreement.** In any river or stream not managed under a lease agreement, there is a 72-hour closed period on the taking of alewives river herring and obstruction of the watercourse to allow the free passage of fish from 6 a.m. on Thursday to 6 a.m. the following Sunday.

**4. Violation of harvesting plan.** If the commissioner determines after investigation that the municipality is not following its alewife river herring harvesting plan, ~~he the commissioner~~ shall notify the municipality. Any municipality ~~which that~~ fails to take corrective action within 48 hours of notification ~~shall lose~~ loses its alewife river herring fishing privilege for that calendar year. Upon further notification by the commissioner of loss of alewife river herring fishing privileges, the municipality or its agents shall cease all fishing activity and immediately remove all traps, weirs, seines or other alewife river herring fishing gear from their alewife river herring waters.

**5. Leasing of rights.** The commissioner:

A. When the commissioner decides to manage or lease any alewife river herring fishing rights ~~where~~ when a municipality has had those rights and has failed to act as provided in subsection 1, shall so notify the clerk of the municipality in writing. After the notice, the commissioner may lease any of those rights to any person, as the commissioner determines is in the best interest of the State. All leases must be in writing and signed by the commissioner and the lessee and must set forth in detail the exact conditions under which the alewives river herring may be taken, all in accordance with good conservation practices; and

B. May manage or lease alewife river herring fishing rights in any river or stream where a municipality does not have those rights. The commissioner may lease any of those rights to any person, as the commissioner determines is in the best interest of the State. All leases must be in writing and approved and signed by the commissioner and the lessee and must set forth in detail the exact conditions under which the alewives river herring may be taken, all in accordance with good conservation practices.

**6. Violation of terms.** It ~~shall be~~ is unlawful for any person holding such a lease to violate any of its terms or to cause the same to be done.

**7. Molesting equipment.** It ~~shall be~~ is unlawful to molest the fishing equipment of any lease holder or to interfere with the fishing rights granted by the lease.

**8. Migratory Fish Fund.** All fees received by the commissioner from alewife river herring leasing rights are allocated to the Migratory Fish Fund, as established. Expenditures from the Migratory Fish Fund must be made:

A. To build fishways for alewives river herring and other migratory fish;

B. For construction of other facilities for improving the environment of alewives river herring and other migratory fish;

C. For general propagation and conservation of alewives river herring and other migratory fish;

D. For research to enhance the fishing industry based on alewives river herring and other migratory fish; and

E. For management measures required to maintain or enhance alewife river herring populations or populations of other migratory fish.

The Migratory Fish Fund does not lapse.

**Sec. 12. 12 MRSA §6134**, as repealed and replaced by PL 2007, c. 587, §1, is amended to read:

**§6134. River herring passage; fishways on the St. Croix River**

This section governs the passage of alewives river herring on the Woodland Dam and the Grand Falls Dam located on the St. Croix River.

**1. Woodland Dam.** By May 1, 2008, the commissioner and the Commissioner of Inland Fisheries and Wildlife shall ensure that the fishway on the Woodland Dam is configured or operated in a manner that allows the passage of alewives river herring.

**2. Grand Falls Dam.** The commissioner and the Commissioner of Inland Fisheries and Wildlife shall ensure that the fishway on the Grand Falls Dam is configured or operated in a manner that prevents the passage of alewives river herring.

**Sec. 13. 12 MRSA §6136, sub-§5**, as enacted by PL 2005, c. 641, §1, is amended to read:

**5. Amendment and termination of trust.** The department shall ~~file a report~~ make recommendations as follows.

~~A. The department shall report to the Legislature on a biennial basis concerning the activities of the trust.~~

B. In the event the department determines that the provisions of the trust should be amended, the department shall make appropriate recommendations to the Legislature ~~in its biennial report~~.

C. The department may recommend ~~in its biennial report~~ that the trust be terminated if termination is determined to be appropriate. In the event

that the Legislature terminates the trust, the principal and operating funds must be disbursed in a manner consistent with the purpose of the trust.

**Sec. 14. 12 MRSA §6141, sub-§5,** as amended by PL 1987, c. 694, §2, is repealed.

**Sec. 15. 12 MRSA §6171, sub-§5, ¶B,** as enacted by PL 2007, c. 574, §1, is amended to read:

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 Legislature. Rules adopted pursuant to this paragraph must also be submitted to the Legislature under paragraph A. The commissioner may not adopt rules under Title 5, section 8054 pursuant to this paragraph.

~~This paragraph is repealed July 31, 2012.~~

**Sec. 16. 12 MRSA §6301, sub-§2, ¶S,** as enacted by PL 2009, c. 561, §9, is amended to read:

S. An enhanced retail ~~seafood license certificate~~ issued under section ~~6852-A~~ 6852, subsection 2-A expires on March 31st of each year;

**Sec. 17. 12 MRSA §6302-A,** as amended by PL 2011, c. 266, Pt. A, §2, is further amended to read:

**§6302-A. Taking of marine organisms by Passamaquoddy tribal members, members of the Penobscot Nation and members of the Aroostook Band of Micmacs**

**1. Tribal exemption; commercial harvesting licenses.** A member of the Passamaquoddy Tribe or Penobscot Nation or Aroostook Band of Micmacs who is a resident of the State is not required to hold a state license or permit issued under section 6421, 6501, 6502-A, 6505-A, 6505-C, 6535, 6601, 6602, 6701, 6702, 6703, 6731, 6745, 6746, 6748, 6748-A, 6748-D, 6751, 6803 or 6804 or 6808 to conduct activities authorized under the state license or permit if that member holds a valid license issued by the tribe or nation or band or the agent of the band to conduct the activities authorized under the state license or permit. A member of the Passamaquoddy Tribe or Penobscot Nation or Aroostook Band of Micmacs issued a tribal license pursuant to this subsection to conduct activities is subject to all laws and rules applicable to a person who holds a state license or permit to conduct those activities and to all the provisions of chapter 625, except that the member of the tribe or nation or band:

A. May utilize lobster traps tagged with trap tags issued by the tribe or nation or band or the agent of the band in a manner consistent with trap tags

issued pursuant to section 6431-B. A member of the tribe or nation or band is not required to pay trap tag fees under section 6431-B if the tribe or nation or band or the agent of the band issues that member trap tags;

B. May utilize elver fishing gear tagged with elver gear tags issued by the tribe or nation or band or the agent of the band in a manner consistent with tags issued pursuant to section 6505-B. A member of the tribe or nation or band is not required to pay elver fishing gear fees under section 6505-B if the tribe or nation or band or the agent of the band issues that member elver fishing gear tags; and

C. Is not required to hold a state shellfish license issued under section 6601 to obtain a municipal shellfish license pursuant to section 6671.

**2. Tribal exemption; sustenance or ceremonial tribal use.** Notwithstanding any other provision of law, a member of the Passamaquoddy Tribe or Penobscot Nation or Aroostook Band of Micmacs who is a resident of the State may at any time take, possess, transport and distribute:

A. Any marine organism, except lobster, for sustenance use if the tribal member holds a valid sustenance fishing license issued by the tribe or nation or band or the agent of the band. A sustenance fishing license holder who fishes for sea urchins may not harvest sea urchins out of season;

B. Lobsters for sustenance use, if the tribal member holds a valid sustenance lobster license issued by the tribe or nation or band or the agent of the band. The sustenance lobster license holder's traps must be tagged with sustenance use trap tags issued by the tribe or nation or band or the agent of the band in a manner consistent with trap tags issued pursuant to section 6431-B; however, a sustenance lobster license holder may not harvest lobsters for sustenance use with more than 25 traps; and

C. Any marine organism for noncommercial use in a tribal ceremony within the State, if the member holds a valid ceremonial tribal permit issued to the tribal member by the Joint Tribal Council of the Passamaquoddy Tribe or the governor and council at either Passamaquoddy reservation or by the Penobscot Reservation Tribal Council or by the Aroostook Band of Micmacs Tribal Council or its agent.

For purposes of this subsection, "sustenance use" means all noncommercial consumption or noncommercial use by any person within ~~the Passamaquoddy reservation at Pleasant Point or Indian Township, the Indian territory, as defined in Title 30, section 6205, subsection 1, Penobscot Indian Reservation territory, as defined in Title 30, section 6205, subsection 2, or~~

~~Aroostook Band Trust Land, as defined in Title 30, section 7202, subsection 2, or at any location within the State by a tribal member, by a tribal member's immediate family or within a tribal member's household. The term "sustenance use" does not include the sale of marine organisms. A member of the Passamaquoddy Tribe or Penobscot Nation who takes a marine organism under a license or permit issued pursuant to this subsection must comply with all laws and rules applicable to a person who holds a state license or permit that authorizes the taking of that organism, except that a state law or rule that sets a season for the harvesting of a marine organism does not apply to a member of the Passamaquoddy Tribe or Penobscot Nation who takes a marine organism for sustenance use or for non-commercial use in a tribal ceremony. A member of the Passamaquoddy Tribe or Penobscot Nation issued a license or permit under this subsection is exempt from paying elver gear fees under section 6505-B or trap tag fees under section 6431-B and is not required to hold a state shellfish license issued under section 6601 to obtain a municipal shellfish license pursuant to section 6671. A member of the Passamaquoddy Tribe or Penobscot Nation who fishes for or takes lobster under a license or permit issued pursuant to this subsection must comply with the closed periods under section 6440.~~

A member of the Passamaquoddy Tribe, Penobscot Nation or Aroostook Band of Micmacs who takes a marine organism under a license or permit issued pursuant to this subsection must comply with all laws and rules applicable to a person who holds a state license or permit that authorizes the taking of that organism, except that a state law or rule that sets a season for the harvesting of a marine organism does not apply to a member of the Passamaquoddy Tribe, Penobscot Nation or Aroostook Band of Micmacs who takes a marine organism for sustenance use or for noncommercial use in a tribal ceremony. A member of the Passamaquoddy Tribe, Penobscot Nation or Aroostook Band of Micmacs issued a license or permit under this subsection is exempt from paying elver gear fees under section 6505-B or trap tag fees under section 6431-B and is not required to hold a state shellfish license issued under section 6601 to obtain a municipal shellfish license pursuant to section 6671. A member of the Passamaquoddy Tribe, Penobscot Nation or Aroostook Band of Micmacs who fishes for or takes lobster under a license or permit issued pursuant to this subsection must comply with the closed periods under section 6440.

**3. Lobster, sea urchin, scallop and elver licenses; limitations.** Pursuant to subsection 1:

A. The Passamaquoddy Tribe and Penobscot Nation may each issue to members of its tribe or nation, as the case may be, up to 24 commercial lobster and crab fishing licenses in any calendar year, including all licenses equivalent to Class I, Class

II or Class III licenses and student licenses, but not including apprentice licenses. Licenses issued under this paragraph are subject to the eligibility requirements of section 6421, subsection 5;

A-1. The Aroostook Band of Micmacs or its agent may issue to members of the band up to 10 commercial lobster and crab fishing licenses in any calendar year, including all licenses equivalent to Class I, Class II or Class III licenses and student licenses, but not including apprentice licenses. Licenses issued under this paragraph are subject to the eligibility requirements of section 6421, subsection 5;

B. The Passamaquoddy Tribe may not issue to members of the tribe more than 24 commercial licenses for the taking of sea urchins in any calendar year. Sea urchin licenses must be issued by zone in accordance with section 6749-P;

C. The commissioner shall adopt rules authorizing the Penobscot Nation to issue to members of the nation commercial sea urchin licenses if the commissioner determines that sea urchin resources are sufficient to permit the issuance of new licenses. The commissioner may not authorize the Penobscot Nation to issue more than 24 commercial sea urchin licenses to members of the nation in any calendar year;

C-1. The commissioner shall adopt rules authorizing the Aroostook Band of Micmacs or its agent to issue to members of the band commercial sea urchin licenses if the commissioner determines that sea urchin resources are sufficient to permit the issuance of new licenses. The commissioner may not authorize the Aroostook Band of Micmacs or its agent to issue more than 24 commercial sea urchin licenses to members of the band in any calendar year;

D. The Penobscot Nation may not issue to members of the nation more than 20 commercial licenses for the taking of scallops in any calendar year, except that the commissioner shall by rule allow the Penobscot Nation to issue additional commercial licenses to members of the nation for the taking of scallops if the commissioner determines that scallop resources are sufficient to permit the issuance of new licenses; ~~and~~

D-1. The Aroostook Band of Micmacs or its agent may not issue to members of the band more than 10 commercial licenses for the taking of scallops in any calendar year, except that the commissioner shall by rule allow the Aroostook Band of Micmacs or its agent to issue additional commercial licenses to members of the band for the taking of scallops if the commissioner determines that scallop resources are sufficient to permit the issuance of new licenses;

E. The Penobscot Nation may not issue to members of the nation more than 8 commercial licenses for the taking of elvers in any calendar year, except that the commissioner shall by rule allow the Penobscot Nation to issue additional commercial licenses to members of the nation for the taking of elvers if the commissioner determines that elver resources are sufficient to permit the issuance of new licenses; and

F. The Aroostook Band of Micmacs or its agent may not issue to members of the band more than 8 commercial licenses for the taking of elvers in any calendar year, except that the commissioner shall by rule allow the Aroostook Band of Micmacs or its agent to issue additional commercial licenses for the taking of elvers to members of the band if the commissioner determines that elver resources are sufficient to permit the issuance of new licenses.

The Passamaquoddy Tribe, Penobscot Nation, Aroostook Band of Micmacs and Department of Marine Resources shall report on the status of the sea urchin, scallop and elver fisheries to the joint standing committee of the Legislature having jurisdiction over marine resources matters by January 15th of each even-numbered year.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**4. Sea urchin and scallop handfishing and tender licenses; limitations.** The Passamaquoddy Tribe or Penobscot Nation or Aroostook Band of Micmacs or its agent may not issue a license or permit pursuant to subsection 1 or 2:

A. For the harvesting of sea urchins or scallops by hand unless the license or permit applicant meets the diver competency requirements of section 6531; and

B. For the tending of a person who fishes for or takes scallops or sea urchins by diving unless the applicant meets the safety training requirements of section 6533.

**5. Notification.** Subsections 1 and 2 do not apply to a member of the Passamaquoddy Tribe or Penobscot Nation or Aroostook Band of Micmacs unless a copy of that member's tribal license or permit is filed with the commissioner by the tribal licensing agency or its agent or a tribal official in accordance with section 6027.

**6. License suspension.** If a member of the Passamaquoddy Tribe or Penobscot Nation or Aroostook Band of Micmacs issued a license or permit under this section is convicted or adjudicated of a violation for which a license suspension is mandatory under chapter 617, the commissioner shall suspend that member's

license or permit for the specified period. If a member of the Passamaquoddy Tribe or Penobscot Nation or Aroostook Band of Micmacs issued a license or permit under this section is convicted or adjudicated of a violation for which the commissioner may suspend a license, the commissioner may suspend that member's license or permit in accordance with chapter 617.

**7. Enforcement.** A violation of a marine resources law or rule by a member of the Passamaquoddy Tribe or Penobscot Nation or Aroostook Band of Micmacs who is issued a license or permit pursuant to this section must be enforced pursuant to chapter 609. A member of the Passamaquoddy Tribe or Penobscot Nation or Aroostook Band of Micmacs who is issued a license or permit pursuant to this section must possess and exhibit that license or permit in accordance with section 6305 and must comply with the provisions of section 6306 regarding inspections and searches by marine patrol officers for violations related to licensed or permitted activities.

**8. Resident of the State defined.** For the purposes of this section, "resident of the State" means a member of the Passamaquoddy Tribe or Penobscot Nation or Aroostook Band of Micmacs who is eligible to obtain a state resident license under section 6301, subsection 1.

**9. Political subdivision.** Nothing in this section may be construed to indicate that the Passamaquoddy Tribe or the Penobscot Nation or the Aroostook Band of Micmacs is a political subdivision of the State.

**10. Agent.** For purposes of this section, an agent of the Aroostook Band of Micmacs is any entity authorized by the Aroostook Band of Micmacs Tribal Council to act on its behalf under this section. The Aroostook Band of Micmacs Tribal Council shall certify to the department any agent it has designated to act on its behalf under this section.

**Sec. 18. 12 MRSA §6371, sub-§2,** as amended by PL 2011, c. 311, §1, is further amended to read:

**2. Suspension for refusal to allow a shellfish inspection by a department shellfish inspector.** Refusal to allow a shellfish inspection under section ~~6852-A~~ or 6856 is grounds for suspension of any licenses or certificates issued under marine resources laws. In order to suspend a license or certificate under this subsection, the commissioner shall follow the procedures of section 6372.

**Sec. 19. 12 MRSA §6372, first ¶,** as amended by PL 2011, c. 311, §2, is further amended to read:

Notwithstanding the Maine Administrative Procedure Act, the procedure for suspending a license for refusal to allow inspection or seizure under section 6306 or refusal to allow inspection under section

~~6852-A~~ 6852, subsection 2-A or section 6856 is as follows.

**Sec. 20. 12 MRSA §6374, sub-§2**, as enacted by PL 2011, c. 311, §4, is amended to read:

**2. Hearing.** A hearing requested under subsection 1 must be held within ~~40~~ 30 business days after receipt by the commissioner of a request for hearing except that a hearing may be held more than ~~40~~ 30 business days after the request if the delay is requested by the person requesting the hearing. The hearing must be held in accordance with the Maine Administrative Procedure Act, except that:

A. Notwithstanding Title 5, section 9057, issues of the hearing are limited to whether the person requesting the hearing had a license and whether that person committed a violation of marine resources law; and

B. Notwithstanding Title 5, section 9061, the decision of the presiding officer under Title 5, section 9062 must be made not more than 10 business days after completion of the hearing.

**Sec. 21. 12 MRSA §6501, sub-§6**, as amended by PL 2011, c. 266, Pt. A, §16, is further amended to read:

**6. Definition.** For the purposes of this chapter, "fish" means all marine finfish except Atlantic herring, Atlantic menhaden, whiting, spiny dogfish, ~~alewife river herring~~, Atlantic mackerel, blueback herring, squid, butterfish, scup, black sea bass, smelt and shad. For the purposes of this chapter, "fish" also means all other marine organisms, except lobsters, crabs, sea urchins, shellfish, scallops, marine worms, elvers, sea cucumbers, eels, shrimp or seaweed.

**Sec. 22. 12 MRSA §6502-A, sub-§1**, as enacted by PL 2009, c. 527, §2, is amended to read:

**1. Definition.** As used in this section, "pelagic or anadromous fish" means Atlantic herring, Atlantic menhaden, whiting, spiny dogfish, ~~alewife river herring~~, Atlantic mackerel, blueback herring, squid, butterfish, scup, black sea bass, smelt and shad.

**Sec. 23. 12 MRSA §6502-A, sub-§4**, as enacted by PL 2009, c. 527, §2, is amended to read:

**4. Exemption.** The licensing requirement under subsection 2 does not apply to a person who fishes for, takes, possesses or transports any pelagic or anadromous fish that have been taken by speargun, harpoon, minnow trap, hand dip net or hook and line and are only for personal use.

**Sec. 24. 12 MRSA §6553-A**, as enacted by PL 1983, c. 830, is amended to read:

### **§6553-A. Implements and devices in Washington County waters**

Between May 1st and December 1st of each year, it ~~shall be~~ is unlawful to set or use any device, such as fish spawn, grapnel, spear, trawl, weir, gaff, seine, gill net, trap or set line on the waters of the Pleasant River and its tributaries in Columbia Falls and Addison, in Washington County, above Maine River Bridge, so-called, in Addison, and during that closed period ~~no~~ a person may not have in ~~his~~ that person's possession any grapnel, trawl, weir, seine, gill net, trap or set line on the waters of the Pleasant River or its tributaries within those boundaries. This section does not apply to the taking of eels by spear from those waters during the month of November annually. This section does not apply to the taking of ~~alewives river herring~~ from those waters as authorized by the general law or by vote of the Town of Columbia Falls. Any equipment used in violation of this section ~~shall~~ must be confiscated by the commissioner, after final adjudication of any charge brought under this section.

**Sec. 25. 12 MRSA §6575-C, sub-§2**, as amended by PL 2003, c. 452, Pt. F, §13 and affected by Pt. X, §2, is further amended to read:

**2. River herring traps.** A person may not fish for or take elvers within 50 feet of a licensed ~~alewife river herring~~ trap.

**Sec. 26. 12 MRSA §6601, sub-§2**, as amended by PL 2009, c. 217, §1, is further amended to read:

**2. Licensed activities.** The holder of a commercial shellfish license may fish for, take, possess or transport shellfish within the state limits or sell shellstock the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail ~~seafood license certificate~~ holder under section ~~6852-A~~ 6852, subsection 2-A. The holder may also sell shellstock the holder has taken from that license holder's home in the retail trade. This license does not authorize the holder to fish for or take shellfish in violation of a municipal ordinance adopted pursuant to section 6671.

**Sec. 27. 12 MRSA §6602, sub-§2**, as amended by PL 2009, c. 217, §2, is further amended to read:

**2. Licensed activity.** A surf clam boat license issued under this section may be used for harvesting surf clams. The holder of a surf clam boat license may also possess or transport surf clams within state limits or sell surf clams the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail ~~seafood license certificate~~ holder under section ~~6852-A~~ 6852, subsection 2-A. The license also authorizes the captain and crew members

aboard the licensed boat when engaged in harvesting surf clams to undertake these activities.

**Sec. 28. 12 MRSA §6651, sub-§1, ¶¶F and G,** as enacted by PL 2009, c. 213, Pt. G, §16, are amended to read:

F. Two hundred fifty dollars and twenty-five cents from a wholesale seafood license; ~~and~~

G. Forty-eight dollars and seventy-five cents from a wholesale seafood supplemental license; ~~and~~

**Sec. 29. 12 MRSA §6651, sub-§1, ¶H** is enacted to read:

H. Twenty-eight dollars from an enhanced retail certificate.

**Sec. 30. 12 MRSA §6672,** as enacted by PL 1977, c. 661, §5, is repealed.

**Sec. 31. 12 MRSA §6702, sub-§§1 and 2,** as amended by PL 2007, c. 607, Pt. A, §2, are further amended to read:

**1. License required.** A person may not use a boat for dragging for scallops in the State's territorial waters unless that person holds a scallop dragging license issued by the commissioner and that boat is identified on the license.

**2. Licensed activity.** A person licensed under this section may use the boat identified on the license to drag for scallops in the State's territorial waters and possess, ship, sell or transport shucked scallops taken under the license. The license also authorizes the captain and crew members aboard the boat identified on the license when engaged in dragging for scallops to undertake these activities, except that the captain and crew members may not fish for or take scallops if the license holder is not aboard that boat except as provided in subsection 2-A.

**Sec. 32. 12 MRSA §6731, sub-§2, ¶C,** as amended by PL 2009, c. 217, §3, is further amended to read:

C. Sell mahogany quahogs that the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail ~~seafood license certificate~~ holder under section ~~6852-A 6852~~, subsection 2-A.

**Sec. 33. 12 MRSA §6731-A, sub-§6,** as enacted by PL 2003, c. 593, §2, is amended to read:

**6. Stock assessment.** The department shall conduct stock assessments of the mahogany quahog resource beginning no later than January 1, 2005. ~~The department shall report biennially to the joint standing committee of the Legislature having jurisdiction over marine resources matters on the progress of the stock assessment and the status of the Mahogany Quahog Monitoring Fund starting on January 1, 2006.~~

**Sec. 34. 12 MRSA §6745, sub-§2,** as amended by PL 2009, c. 217, §4, is further amended to read:

**2. Licensed activity.** The holder of a hand-raking mussel license may take mussels by hand raking or possess or transport mussels within the state limits or sell mussels the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail ~~seafood license certificate~~ holder under section ~~6852-A 6852~~, subsection 2-A.

**Sec. 35. 12 MRSA §6746, sub-§2,** as amended by PL 2009, c. 217, §5, is further amended to read:

**2. Licensed activity.** A boat license under this section may be used for dragging for mussels. The holder of a mussel boat license may also possess or transport mussels within the state limits or sell mussels the holder has taken to a wholesale seafood license holder certified under section 6856 or an enhanced retail ~~seafood license certificate~~ holder under section ~~6852-A 6852~~, subsection 2-A. The license also authorizes the captain and crew members aboard the licensed boat when engaged in dragging for mussels to undertake these activities. A mussel boat license does not authorize the holder to fish for or take mussels in violation of a municipal ordinance adopted pursuant to section 6671.

**Sec. 36. 12 MRSA §6748, sub-§4,** as repealed and replaced by PL 2009, c. 561, §28, is amended to read:

**4. Zone 2 fee.** Fees for Zone 2 handfishing sea urchin licenses are:

A. For an individual handfishing sea urchin license, \$152; and

B. For a handfishing sea urchin license with tender, \$202.

**Sec. 37. 12 MRSA §6748, sub-§4-B** is enacted to read:

**4-B. Zone 1 fee.** Fees for Zone 1 handfishing sea urchin licenses are, if the Zone 1 season is not longer than 10 days:

A. For an individual handfishing sea urchin license, \$25; and

B. For a handfishing sea urchin license with tender, \$50.

If the Zone 1 season is longer than 10 days, the department may by rule increase the individual handfishing sea urchin license fee and handfishing sea urchin license with tender fee to an amount no higher than the amount specified in subsection 4. Rules adopted under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 38. 12 MRSA §6748-A, sub-§4**, as amended by PL 2009, c. 213, Pt. G, §24, is further amended to read:

**4. Zone 2 fee.** The fee for a Zone 2 sea urchin dragging license is \$152.

**Sec. 39. 12 MRSA §6748-A, sub-§4-B** is enacted to read:

**4-B. Zone 1 fee.** The fee for a Zone 1 sea urchin dragging license is \$25 per year when the season is no longer than 10 days. If the Zone 1 season is longer than 10 days, the department may by rule increase the sea urchin dragging license fee to an amount no higher than the amount specified in subsection 4. Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 40. 12 MRSA §6749-N, last ¶**, as amended by PL 2001, c. 327, §10, is repealed.

**Sec. 41. 12 MRSA §6851, sub-§2, ¶A**, as amended by PL 1999, c. 491, §6 and affected by §9, is further amended to read:

A. Within or beyond the state limits, buy, sell, process, ship or transport any marine species or their parts, except lobsters, ~~and~~ sea urchins and shrimp purchased directly from harvesters;

**Sec. 42. 12 MRSA §6851, sub-§2-D**, as amended by PL 2009, c. 561, §31, is further amended to read:

**2-D. Wholesale seafood license with shrimp permit.** At the request of the applicant, the commissioner shall issue a wholesale seafood license with a shrimp permit. A person holding a wholesale seafood license with a shrimp permit may engage in all of the activities in subsection 2 ~~and~~ may buy, shrimp from harvesters and may sell, process, ship or transport shrimp.

**Sec. 43. 12 MRSA §6851, sub-§3**, as amended by PL 1991, c. 523, §3, is further amended to read:

**3. Exceptions.** This section does not apply to smoked herring or ~~alewives~~ river herring.

**Sec. 44. 12 MRSA §6852**, as amended by PL 2009, c. 478, §3 and c. 523, §§10 and 11, is further amended to read:

**§6852. Retail seafood license**

**1. License required.** A person may not engage in the activities authorized under this section without a retail seafood license ~~or other license~~ issued under this Part authorizing the activities.

**2. License activity.** The holder of a retail seafood license may, in the retail trade ~~within the state limits~~, buy, sell, transport, ship or serve:

A. Shellstock ~~and shucked shellfish~~ if they are bought from a wholesale seafood license holder certified under section 6856;

~~C. Lobster parts or meat, if they are permitted under section 6857, purchased from a wholesale seafood license holder who possesses a lobster processor license under section 6851 B or have been lawfully imported;~~

D. Crayfish; or

E. Lobsters.

A holder of a retail seafood license when buying directly from a harvester may buy only from a harvester who possesses the license or permit for that species as required under this Part. The harvester shall make the applicable marine resources license or permit available for inspection upon the retail seafood license holder's request.

**2-A. Enhanced retail certificate authorized.** The holder of a retail seafood license may obtain an enhanced retail certificate from the department. The holder of an enhanced retail certificate may, in the retail trade within the state limits, buy, sell, transport, ship or serve:

A. Shellstock bought from a commercial shellfish license holder licensed under section 6601;

B. Shellstock bought from a surf clam boat license holder licensed under section 6602;

C. Shellstock bought from a mahogany quahog license holder licensed under section 6731; or

D. Shellstock bought from a hand-raking mussel license holder licensed under section 6745 or a mussel boat license holder licensed under section 6746.

For the purposes of inspection or collection of samples, the commissioner or the commissioner's agent may access an establishment or part thereof or vehicle in which activities authorized under this certificate are conducted by a person holding a retail seafood license. Denial of access is grounds for suspension or revocation of a retail seafood license under the provisions of section 6372.

**3. License limited.** A license authorizes ~~these~~ activities pursuant to subsection 2 at only one establishment or with only one vehicle.

~~**3-A. Retail sale of certain seafood products.** Notwithstanding any provision of law to the contrary, a license or certificate is not required for a person to sell at retail:~~

~~A. Shucked shellfish, if the shucked shellfish is purchased from a wholesale seafood license holder certified under section 6856; or~~

~~B. Lobster parts or meat, if they are purchased from a wholesale seafood license holder who possesses a lobster processor license under section 6851-B or if they have been lawfully imported.~~

**3-B. Certificate limited.** An enhanced retail certificate authorizes activities pursuant to subsection 2-A at only one establishment.

**4. Fee.** The fee for a retail seafood license under subsection 1 is \$122. The fee for an enhanced retail certificate under subsection 2-A is \$28 and must be deposited in the Shellfish Fund under section 6651.

**5. Violation.** A person who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

**6. Rules.** The commissioner may adopt or amend rules that establish requirements for retail seafood license holders and enhanced retail certificate holders concerning:

- A. The minimum sanitation standards for establishments and vehicles;
- B. The sanitation and quality control standards for shellfish and whole scallops and their products;
- C. The methods for handling, shipping and transporting of shellfish and whole scallops;
- D. The records and reports of purchases, shipping and transporting of shellfish and whole scallops;
- E. The labeling or marking of shipments of shellfish and wholesale scallops; and
- F. The protection of public health.

Rules adopted pursuant to this subsection must be based on the particular operational requirements of each activity, the most recently adopted federal sanitation standards and the most recent generally accepted research data and must be designed to protect the public health and safety while allowing reasonable use of shellfish and whole scallops. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 45. 12 MRSA §6852-A**, as amended by PL 2011, c. 311, §5, is repealed.

**Sec. 46. 12 MRSA §6852-B** is enacted to read:

**§6852-B. Retail sale of certain seafood products**

Notwithstanding any provision of law to the contrary, a license or certificate is not required for a person to sell at retail:

**1. Shucked shellfish.** Shucked shellfish, if the shucked shellfish is purchased from a wholesale seafood license holder certified under section 6856; or

**2. Lobster parts or meat.** Lobster parts or meat, if they are purchased from a wholesale seafood license holder with a lobster permit, from the holder of a lobster processor license or from an individual permitted under section 6857 or if they have been lawfully imported.

**Sec. 47. 12 MRSA §6955**, as enacted by PL 1985, c. 211, is amended to read:

**§6955. Fishing in waters of Union River Bay and the lower Union River**

It is unlawful to fish with any type of net, fish trap or weir from April 15th to August 1st in the tidal waters of Union River Bay and the lower Union River north of a line drawn from the southernmost tip of Newbury Neck in the Town of Surry and extended eastward to the southernmost tip of Oak Point in the Town of Trenton. The closed area ~~shall extend~~ extends northward to the downstream side of the Bangor Hydropower Company dam in the City of Ellsworth. Fishing for eels or smelts by means of hand dip nets, fyke nets or baited eel traps ~~shall be~~ is exempt from this section. The taking of ~~alewives~~ river herring under the provisions of section 6131, subsection 5, ~~shall be~~ is exempt from this section.

**Sec. 48. 12 MRSA §6977**, as enacted by PL 2003, c. 573, §1, is repealed.

**Sec. 49. Rules.** Notwithstanding any provision of law to the contrary, rules adopted by the Department of Marine Resources pertaining to enhanced retail seafood license holders apply to enhanced retail certificate holders under the Maine Revised Statutes, Title 12, section 6852, subsection 2-A pending adoption by the department of revised rules in accordance with this Act.

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

Effective April 6, 2012.

**CHAPTER 599**

**S.P. 596 - L.D. 1739**

**An Act To Change Regulation of Forestry Activities**

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

**Sec. 1. 12 MRSA §685-A, sub-§12**, as repealed and replaced by PL 2005, c. 226, §1, is amended to read:

**12. Timber harvesting activities.** Rules adopted by the Commissioner of Conservation pursuant to section 8867-B for the purpose of regulating timber har-

vesting and timber harvesting activities in areas adjacent to rivers, streams, ponds, wetlands and tidal waters become effective for the unorganized and deorganized areas on the date established under Title 38, section 438-B, subsection 5.

The Director of the Bureau of Forestry within the Department of Conservation shall administer and enforce the regulation of timber harvesting and timber harvesting activities in these areas. For the purposes of this subsection, "timber harvesting" and "timber harvesting activities" have the same meanings as in section 8868, subsections 4 and 5.

Beginning November 1, 2012, the Director of the Bureau of Forestry within the Department of Conservation shall administer and enforce the regulation of timber harvesting and timber harvesting activities in protection districts and management districts in accordance with rules adopted under section 8867-D.

**Sec. 2. 12 MRSA §685-A, sub-§14** is enacted to read:

**14. Land management roads, gravel pits and water crossings.** Beginning November 1, 2012, the Director of the Bureau of Forestry within the Department of Conservation shall administer and enforce the regulation of construction, maintenance and repair of land management roads, water crossings and gravel pits of less than 5 acres in protection districts and management districts in accordance with rules adopted under section 8867-E. For the purposes of this subsection, "land management road" has the same meaning as under section 8868, subsection 7.

**Sec. 3. 12 MRSA §8867-C** is enacted to read:  
**§8867-C. Enhancement of cold water fisheries habitat**

By November 1, 2012, the Commissioner of Conservation shall adopt rules to allow activities that enhance cold water fishery habitat without a permit or fee. The rules must establish standards for the placement of wood in stream channels and specify that only a licensed forester trained by the bureau in cooperation with the Department of Inland Fisheries and Wildlife in techniques to enhance fisheries habitat may implement these techniques.

In developing standards to enhance brook trout habitat and the training required to implement habitat enhancement, the Commissioner of Conservation shall consult with the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Environmental Protection. The bureau shall notify the departments of habitat enhancement activities conducted under this section.

A permit is not required for activities conducted in accordance with the rules adopted under this section in stream segments that have been identified by the Department of Inland Fisheries and Wildlife as lacking

desired habitat features. The Department of Marine Resources must be consulted and approve of any habitat enhancement under this section on a stream that is identified as Atlantic salmon habitat.

The initial rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Subsequent amendments to those rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. This section does not relieve a person from meeting the requirements of section 8867-B or Title 38, chapter 3, subchapter 1, article 2-B.

**Sec. 4. 12 MRSA §8867-D** is enacted to read:  
**§8867-D. Regulation of timber harvesting and timber harvesting activities within the unorganized and deorganized areas of the State**

Beginning November 1, 2012, the director of the bureau shall administer and enforce the regulation of timber harvesting and timber harvesting activities in areas classified as protection districts and management districts by the commission in accordance with section 685-A. The Commissioner of Conservation shall establish standards in rule to implement this section.

The initial rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Subsequent amendments to those rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 5. 12 MRSA §8867-E** is enacted to read:  
**§8867-E. Regulation of land management roads, gravel pits and water crossings within the unorganized and deorganized areas of the State**

**1. Regulation.** In accordance with section 685-A, subsection 14, beginning November 1, 2012, the director of the bureau shall administer and enforce the regulation of construction, maintenance and repair of land management roads, water crossings and gravel pits of less than 5 acres in areas designated as protection districts and management districts by the commission.

**2. Rules.** The Commissioner of Conservation shall adopt rules to implement this section. Initial rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Subsequent amendments to those rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules adopted under this subsection must be adopted in consultation with the commission. The rules must:

A. Require a permit from the bureau for activities located within areas of special flood hazard as defined in the commission's rules;

B. Include standards to protect outstanding river segments, historic, scenic, scientific, recreational and aesthetic resources in districts classified by the commission for special protection and delineated on land use maps adopted under section 685-A, subsection 7-A; and

C. Require review by and approval from the commission for any activity in a protection district described in paragraph B that requires a permit.

**Sec. 6. 12 MRSA §8867-F** is enacted to read:

**§8867-F. Fee schedule**

The bureau shall establish a schedule of fees through rulemaking for the administration of sections 8867-D and 8867-E. Notwithstanding Title 5, section 8071, subsection 2, paragraph A, rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The bureau may not issue an approval, certificate, special exception or variance until the required fee has been paid.

**Sec. 7. 12 MRSA §8868, sub-§1-A** is enacted to read:

**1-A. Commission.** "Commission" means the Maine Land Use Regulation Commission established under section 683.

**Sec. 8. 12 MRSA §8868, sub-§5**, as enacted by PL 1999, c. 695, §2, is amended to read:

**5. Timber harvesting activities.** "Timber harvesting activities" means timber harvesting, the construction and maintenance of roads used primarily for timber harvesting, the mining of gravel used for the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**Sec. 9. 12 MRSA §8868, sub-§7** is enacted to read:

**7. Land management road.** "Land management road" means a road constructed and used primarily for agricultural or forest management activities.

**Sec. 10. 38 MRSA §438-B**, as amended by PL 2005, c. 397, Pt. C, §23 and affected by §24, is further amended to read:

**§438-B. Timber harvesting and timber harvesting activities in shoreland areas; authority of Director of the Bureau of Forestry in the Department of Conservation**

Except as provided in subsection 4, beginning on the effective date established under subsection 5, rules adopted by the Commissioner of Conservation under Title 12, section 8867-B apply statewide for the purpose of regulating timber harvesting and timber harvesting activities in shoreland areas.

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Director" means the Director of the Bureau of Forestry within the Department of Conservation.

B. "Statewide standards" means the performance standards for timber harvesting activities adopted pursuant to Title 12, section 8867-B.

C. "Timber harvesting" means cutting or removal of timber for the primary purpose of selling or processing forest products.

D. "Timber harvesting activities" means the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**2. Municipal acceptance of statewide standards.** A municipality may choose to have the statewide standards apply to timber harvesting and timber harvesting activities in that municipality by authorizing the repeal of all provisions within the municipal shoreland zoning ordinance that regulate timber harvesting and timber harvesting activities in shoreland areas and notifying the director of the repeal. The authorization must specify a repeal date ~~consistent with the effective date established under subsection 5.~~ When a municipality accepts the statewide standards in accordance with this subsection, the director shall administer and enforce the statewide standards within that municipality beginning on the effective date established under subsection 5 or the municipal repeal date specified in the notification received under this subsection.

**3. Municipal adoption of ordinance identical to statewide standards.** A municipality may adopt an ordinance to regulate timber harvesting and timber harvesting activities that is identical to the statewide standards. A municipality that adopts an ordinance under this subsection may request the director to administer and enforce the ordinance or to participate in joint administration and enforcement of the ordinance with the municipality beginning on the effective date established under subsection 5 or within 60 days of the director's receiving a request. When a municipality requests joint responsibilities, the director and the municipality shall enter into an agreement that delineates the administrative and enforcement duties of each. To continue to receive administrative and enforcement assistance from the director under this subsection, a municipality must amend its ordinance as necessary to maintain identical provisions with the statewide standards.

**4. Municipal ordinances that are not identical to statewide standards.** A municipal ordinance regulating timber harvesting and timber harvesting activities that is in effect and consistent with state laws and

rules in effect on December 31, 2005 continues in effect unless action is taken in accordance with subsection 2 or 3. A municipality that retains an ordinance with provisions that differ from the statewide standards shall administer and enforce that ordinance unless the municipality requests that the director administer and enforce the ordinance and the director agrees with the request after reviewing the ordinance. The director may not administer or enforce any ordinance that is more stringent than or significantly different from the requirements of section 438-A. A municipality may not amend a municipal ordinance regulating timber harvesting and timber harvesting activities unless the process established in Title 12, section 8869, subsection 8 is followed. Beginning on the effective date established under subsection 5, a municipality may not amend an ordinance regulating timber harvesting and timber harvesting activities in a manner that results in standards that are less stringent than or otherwise conflict with the statewide standards.

**5. Effective date for statewide standards.** Except as provided in subsection 4, rules adopted by the Commissioner of Conservation under Title 12, section 8867-B apply statewide beginning on the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1999-2003 have either accepted the statewide standards in accordance with subsection 2 or have adopted an ordinance identical to the statewide standards in accordance with subsection 3. Within 30 days of making the determination that the 252-municipality threshold has been met, the Commissioner of Conservation shall notify the Secretary of State in writing and advise the secretary of the effective date for the statewide standards.

**6. Effective date for statewide standards in certain municipalities.** Notwithstanding any provision in a local ordinance to the contrary, beginning January 1, 2013 rules adopted by the Commissioner of Conservation under Title 12, section 8867-B apply in all municipalities that have either accepted the statewide standards in accordance with subsection 2 or have adopted an ordinance identical to the statewide standards in accordance with subsection 3.

**Sec. 11. 38 MRSA §480-B, sub-§2-B,** as amended by PL 2005, c. 116, §1, is further amended to read:

**2-B. Forest management activities.** "Forest management activities" means timber stand improvement, timber harvesting activities, forest products harvesting and regeneration of forest stands. For the purposes of this definition, "timber harvesting activities" means timber harvesting, the construction and maintenance of roads used primarily for timber harvesting,

the mining of gravel used for the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting. For the purposes of this definition, "timber harvesting" means the cutting or removal of timber for the primary purpose of selling or processing forest products.

**Sec. 12. 38 MRSA §480-E-1, first ¶,** as amended by PL 2009, c. 615, Pt. E, §11, is further amended to read:

The Except as provided in section 480-E-3, the Maine Land Use Regulation Commission shall issue all permits under this article for activities that are located wholly within its jurisdiction and are not subject to review and approval by the department under any other article of this chapter, except as provided in subsection 3.

**Sec. 13. 38 MRSA §480-E-3** is enacted to read:

**§480-E-3. Delegation of permit-granting authority to the Department of Conservation, Bureau of Forestry**

Notwithstanding section 480-E-1, the Department of Conservation, Bureau of Forestry shall issue all permits under this article for timber harvesting activities that are located within the unorganized and deorganized areas of the State as defined in Title 12, section 682, subsection 1 and are not subject to review and approval by the department under any other article of this chapter. For the purposes of this section, "timber harvesting activities" means timber harvesting, the construction and maintenance of roads used primarily for timber harvesting, the mining of gravel used for the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**1. Activity located in organized and unorganized area.** If a timber harvesting activity is located in part within an organized area and in part within an unorganized or deorganized area, that portion of the timber harvesting activity within the organized area is subject to department review under this article if that portion is an activity pursuant to this article. That portion of the timber harvesting activity within an unorganized or deorganized area of the State is not subject to the requirements of this article except as provided in subsection 2.

**2. Allowed use.** If a timber harvesting activity is located as described in subsection 1, the department may review that portion of the activity within the unorganized and deorganized areas if the Department of Conservation, Bureau of Forestry determines that the project is an allowed use within the subdistrict or subdistricts for which it is proposed. A permit from the Bureau of Forestry is not required for those aspects of

an activity approved by the department under this subsection.

The Department of Conservation, Bureau of Forestry, in consultation with the department, shall annually review standards for timber harvesting activities adopted by the Bureau of Forestry to ensure that the standards afford a level of protection consistent with the goals of this article and the goals of Title 12, chapter 805, subchapter 3-A.

**Sec. 14. 38 MRSA §480-Q, sub-§32** is enacted to read:

**32. Placement of wood in streams.** The placement of wood in stream channels to enhance cold water fisheries habitat in accordance with Title 12, section 8867-C and rules adopted to implement that section.

**Sec. 15. Transition.** In adopting rules under the Maine Revised Statutes, Title 12, section 8867-D, the Department of Conservation shall review rules adopted by the Maine Land Use Regulation Commission and in effect for timber harvesting, timber harvesting activities, land management roads, water crossings and gravel pits of less than 5 acres. The department and the commission shall jointly review standards for land management roads, water crossings and gravel pits to protect historic, scenic, scientific, recreational and aesthetic resources in areas identified by the commission as requiring special protection. The department may adopt permit by rule standards through rulemaking under Title 12, sections 8867-D and 8867-E to allow activities without a permit.

See title page for effective date.

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## CHAPTER 600

H.P. 1326 - L.D. 1799

### An Act Regarding the Collection of Fees for Prepaid Wireless Service

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

**Sec. 1. 25 MRSA §2927, sub-§1-F, ¶¶B to J,** as enacted by PL 2009, c. 400, §10 and affected by §15, are repealed.

**Sec. 2. 25 MRSA §2927, sub-§2-B,** as amended by PL 2009, c. 400, §12 and affected by §15, is further amended to read:

**2-B. Surcharge remittance.** Each local exchange telephone utility, cellular or wireless telecommunications service provider and interconnected voice over Internet protocol service provider shall remit the statewide E-9-1-1 surcharge revenues collected from its customers pursuant to subsection 1-D on a monthly

basis and within one month of the month collected to the Treasurer of State for deposit in a separate account known as the E-9-1-1 fund. Each telephone utility or service provider required to remit statewide E-9-1-1 surcharge revenues shall provide, on a form approved by the bureau, supporting data, including but not limited to the following:

- A. The calculation used to arrive at the surcharge remittance amount;
- B. The calculation used to arrive at the uncollectible amount of surcharge;
- C. The total surcharge;
- D. The month and year for which surcharge is remitted;
- E. The legal name of company and telephone number and, if applicable, the parent company name, address and telephone number; and
- F. The preparer's name and telephone number.

Prepaid wireless E-9-1-1 surcharges collected by sellers must be remitted to the ~~Treasurer of State~~ State Tax Assessor in accordance with ~~subsection 1-F, paragraph G~~ Title 35-A, section 7104-C.

**Sec. 3. 35-A MRSA §7101, sub-§6** is enacted to read:

**6. Prepaid wireless telecommunications services.** The Legislature further finds that, because prepaid wireless telecommunications services are provided to consumers without a periodic bill, the collection of fees and surcharges regarding prepaid wireless telecommunications services must be accomplished according to a methodology that differs from the collection of fees and surcharges on other wireless telecommunications services to ensure fairness and competitive neutrality with respect to other telecommunications services provided to consumers of wireless telecommunications services who do receive a periodic bill.

**Sec. 4. 35-A MRSA §7102, sub-§§4 to 8** are enacted to read:

**4. Prepaid wireless telecommunications service.** "Prepaid wireless telecommunications service" has the same meaning as in Title 25, section 2921, subsection 13.

**5. Prepaid wireless telecommunications service consumer or prepaid wireless consumer.** "Prepaid wireless telecommunications service consumer" or "prepaid wireless consumer" has the same meaning as in Title 25, section 2921, subsection 13-A.

**6. Prepaid wireless telecommunications service provider.** "Prepaid wireless telecommunications service provider" has the same meaning as in Title 25, section 2921, subsection 14.

**7. Retail transaction.** "Retail transaction" has the same meaning as in Title 25, section 2921, subsection 15.

**8. Seller.** "Seller" has the same meaning as in Title 25, section 2921, subsection 16.

**Sec. 5. 35-A MRSA §7104, sub-§3-A** is enacted to read:

**3-A. Determination of amount of prepaid wireless telecommunications service fee.** The commission shall determine by rule the amount of the fee on prepaid wireless telecommunications service that is required to be contributed to a state universal service fund established under subsection 3. The fee is a fixed amount per retail transaction established by multiplying \$25 by a percentage that is determined by the commission for purposes of calculating contributions to the state universal service fund by providers of intrastate telecommunications services. The fee must be rounded to the nearest penny. The fee may not be adjusted by the commission more frequently than once every 24 months. The collection of the fee is governed by section 7104-C. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 6. 35-A MRSA §7104-B, sub-§2-A** is enacted to read:

**2-A. Determination of amount of prepaid wireless telecommunications service fee.** The commission shall determine by rule the amount of the fee on prepaid wireless telecommunications service that is required to be contributed to the fund. The fee is a fixed amount per retail transaction established by multiplying \$25 by a percentage that is determined by the commission for purposes of calculating contributions to the fund by providers of intrastate telecommunications services. The fee must be rounded to the nearest penny. The fee may not be adjusted by the commission more frequently than once every 24 months. The collection of the fee is governed by section 7104-C. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 7. 35-A MRSA §7104-C** is enacted to read:

**§7104-C. Collection of fees related to prepaid wireless telecommunications services**

**1. Prepaid wireless fee.** This section governs the fees and surcharges related to prepaid wireless telecommunications services, referred to in this section as "the prepaid wireless fee." The amount of the prepaid wireless fee is the sum of the following fees:

A. The amount of the fee that is required to be contributed to the state universal service fund as determined pursuant to section 7104, subsection 3-A;

B. The amount of the fee that is required to be contributed to the telecommunications education access fund as determined pursuant to section 7104-B, subsection 2-A; and

C. The statewide prepaid wireless telecommunications service E-9-1-1 surcharge levied on prepaid wireless telecommunications service consumers pursuant to Title 25, section 2927, subsection 1-F.

**2. Collection of fees and surcharges related to prepaid wireless telecommunications services.** The collection of the prepaid wireless fee is governed by this subsection.

A. A seller of prepaid wireless telecommunications services shall collect the prepaid wireless fee from the prepaid wireless consumer for each retail transaction occurring in this State. The amount of the prepaid wireless fee must be separately stated on an invoice, receipt or similar document that is provided to the prepaid wireless consumer by the seller, when practicable. In circumstances in which disclosure of the prepaid wireless fee on an invoice, receipt or similar document is not practicable, the seller must make the information regarding the amount of the prepaid wireless fee available to the prepaid wireless consumer in another manner.

B. For purposes of paragraph A, a retail transaction that is effected in person by a prepaid wireless consumer at the business location of the seller is treated as occurring in this State if that business location is in this State. Any other retail transaction must be treated as occurring in this State if the retail transaction is treated as occurring in this State for the purposes of Title 36, section 1752, subsection 8-B.

C. The prepaid wireless fee is the liability of the prepaid wireless consumer and not of the seller or of any prepaid wireless telecommunications service provider, except that the seller is liable to remit all prepaid wireless fees that the seller collects from prepaid wireless consumers as provided in this subsection, including all such charges that the seller is deemed to collect when the amount of the prepaid wireless fee has not been separately stated on an invoice, receipt or similar document provided to the prepaid wireless consumer by the seller.

D. The amount of the prepaid wireless fee that is collected by a seller from a prepaid wireless consumer, whether or not such amount is separately stated on an invoice, receipt or similar document provided to the prepaid wireless consumer by the seller, may not be included in the base for measuring any tax, fee, surcharge or other charge that is

imposed by this State, any political subdivision of this State or any intergovernmental agency.

E. If the prepaid wireless fee is amended by rule or law, the new amount of the prepaid wireless fee must take effect at the beginning of the next calendar quarter that is at least 60 days after adoption or enactment of the change. The commission and the State Tax Assessor shall provide not less than 30 days' advance notice of the adoption or enactment of any change to the prepaid wireless fee amount on both the commission's publicly accessible website and the State Tax Assessor's publicly accessible website.

F. Prepaid wireless fees collected by sellers must be remitted to the State Tax Assessor. Prepaid wireless fees must be remitted at the times and in the manner provided for the remittance of sales tax under Title 36, section 1951-A and rules adopted pursuant to that section for the remittance of sales tax on an other than monthly basis. The State Tax Assessor shall establish registration and payment procedures that substantially coincide with registration and payment procedures as provided in Title 36, section 1754-B and related provisions.

G. A seller who is not a prepaid wireless telecommunications service provider may deduct and retain 3% of the prepaid wireless fee that is collected by the seller from a prepaid wireless consumer.

H. The State Tax Assessor shall establish procedures by which a seller may document that a sale is not a retail transaction. Procedures established under this paragraph must substantially coincide with the procedures for documenting a sale as a retail transaction as provided in Title 36, section 1754-B.

I. The State Tax Assessor shall remit the total prepaid wireless fees collected pursuant to this subsection to the commission. The commission shall deposit the total fees into the prepaid wireless fee fund established in subsection 3 and shall ensure that, within 30 days of receipt:

(1) The portion of the remitted prepaid wireless fees attributable to the E-9-1-1 surcharge imposed by Title 25, section 2927, subsection 1-H is deposited in a separate account;

(2) The portion of the remitted prepaid wireless fees attributable to the fee imposed under section 7104, subsection 3-A is deposited in the state universal service fund established pursuant to section 7104, subsection 3; and

(3) The portion of the remitted prepaid wireless fees attributable to the fee imposed under section 7104-B, subsection 2-A is deposited

in the telecommunications education access fund established under section 7104-B, subsection 2.

**3. Fund established.** The prepaid wireless fee fund is established within the commission for the purposes of collecting and distributing funds pursuant to subsection 2, paragraph 1.

**Sec. 8. Rulemaking.** The Public Utilities Commission shall determine by rule the amount of the fee to be collected from prepaid wireless telecommunications service consumers pursuant to the Maine Revised Statutes, Title 35-A, section 7104, subsection 3-A and section 7104-B, subsection 2-A no later than October 1, 2012. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 9. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC UTILITIES COMMISSION**

**Public Utilities - Administrative Division 0184**

Initiative: Establishes the prepaid wireless fee fund for the purposes of collecting and distributing prepaid wireless fees. The fees will be collected by the State Tax Assessor and credited to the Public Utilities Commission. The commission will transfer the funds to the state universal service fund and the telecommunications education access fund.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$500,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500,000

**Sec. 10. Effective date.** This Act takes effect January 1, 2013, except that that section that requires the Public Utilities Commission to adopt rules by October 1, 2012 takes effect 90 days after adjournment of the Second Regular Session of the 125th Legislature.

Effective January 1, 2013, unless otherwise indicated.

**CHAPTER 601**

**H.P. 1378 - L.D. 1861**

**An Act To Amend Statutory Post-conviction Review**

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

**Sec. 1. 15 MRSA §2121, sub-§1**, as amended by PL 1995, c. 286, §2, is further amended to read:

**1. Criminal judgment.** "Criminal judgment" means a judgment of conviction of a crime, the orders of adjudication and disposition in a juvenile case and a judgment of not criminally responsible by reason of ~~mental disease or defect~~ insanity.

**Sec. 2. 15 MRSA §2121, sub-§1-A**, as amended by PL 2003, c. 29, §1, is further amended to read:

**1-A. Assigned justice or judge.** "Assigned justice or judge" means the Justice or Active Retired Justice of the Supreme Judicial Court, the Justice or Active Retired Justice of the Superior Court or the judge authorized to sit in the Superior Court on post-conviction review cases who is assigned the post-conviction review proceeding when a special assignment has been made. It means any justice, active retired justice or authorized judge attending to the regular criminal calendar when the post-conviction review proceeding is assigned to the regular criminal calendar.

**Sec. 3. 15 MRSA §2121, sub-§2**, as amended by PL 1997, c. 464, §1, is further amended to read:

**2. Post-sentencing proceeding.** "Post-sentencing proceeding" means a court proceeding or administrative action occurring during the course of and pursuant to the operation of a sentence that affects whether there is incarceration or its length, including revocation of parole, failure to grant parole, an error of law in the computation of a sentence including administrative calculations of deductions relative to time detained pursuant to Title 17-A, section 1253, subsection 2 and default in payment of a fine or restitution. It does not include the following Title 17-A, Part 3 court proceedings: revocation of probation, revocation of intensive supervision, revocation of supervised release for sex offenders or revocation of administrative release. It does not include administrative the following administrative actions: calculations of good time and meritorious good time credits pursuant to Title 17-A, section 1253, subsections 3, 3-B, 4, 5 and 7 or similar deductions under Title 17-A, section 1253, subsections 8, 9 and 10; disciplinary proceedings resulting in a withdrawal of good-time credits or similar deductions; revocation of probation, under Title 17-A, section 1253, subsections 6, 8, 9 and 10; cancellation of furlough or other rehabilitative programs authorized under Title 30-A, sections 1556, 1605 and 1606 or Title 34-A, section 3035; cancellation of a supervised community confinement or aftercare status of a juvenile or proceedings before the Appellate Division of the Supreme Judicial Court program granted pursuant to Title 34-A, section 3036-A; cancellation of a community confinement monitoring program granted pursuant to Title 30-A, section 1659-A; or cancellation of place-

ment on community reintegration status granted pursuant to Title 34-A, section 3810 or 4112.

**Sec. 4. 15 MRSA §2122**, as amended by PL 1997, c. 399, §1, is further amended to read:

**§2122. Purpose**

This chapter provides a comprehensive and, except for direct appeals from a criminal judgment, ~~the~~ exclusive method of review of those criminal judgments and of post-sentencing proceedings occurring during the course of sentences. It is a remedy for illegal restraint and other impediments specified in section 2124 that have occurred directly or indirectly as a result of an illegal criminal judgment or post-sentencing proceeding. It replaces the remedies available pursuant to post-conviction habeas corpus, to the extent that review of a criminal conviction or proceedings ~~are~~ were reviewable, the remedies available pursuant to common law habeas corpus, including habeas corpus as recognized in Title 14, sections 5501 and 5509 to 5546, coram nobis, audita querela, writ of error, declaratory judgment and any other previous common law or statutory method of review, except appeal of a judgment of conviction or juvenile adjudication and remedies that are incidental to proceedings in the trial court. The substantive extent of the remedy of post-conviction review is defined in this chapter and not defined in the remedies that it replaces; provided that this chapter provides and is construed to provide relief for those persons required to use this chapter as required by the Constitution of Maine, Article I, Section 10.

**Sec. 5. 15 MRSA §2123, sub-§2**, as amended by PL 1983, c. 816, Pt. B, §4, is further amended to read:

**2. Venue.** Venue ~~shall~~ must be in the county in which the criminal judgment was entered. Venue may be transferred by the assigned justice or judge at his that assigned justice or judge's discretion.

**Sec. 6. 15 MRSA §2123-A** is enacted to read:

**§2123-A. Method of review for administrative actions not included in the definition of "post-sentencing proceeding"**

Remedial relief from administrative actions occurring during the course of and pursuant to the operation of a sentence that affects whether there is incarceration or its length that are not included in the definition of "post-sentencing proceeding" in section 2121, subsection 2 is exclusively provided by Title 5, chapter 375, subchapter 7.

**Sec. 7. 15 MRSA §2124**, as amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §7, is further amended to read:

**§2124. Jurisdictional prerequisites of restraint or impediment**

An action for post-conviction review of a criminal judgment of this State or of a post-sentencing proceeding following the criminal judgment may be brought if the person seeking relief demonstrates that the challenged criminal judgment or post-sentencing proceeding is causing a present restraint or other specified impediment as described in subsections 1 to 3:

**1. Present restraint or impediment by criminal judgment being challenged.** Present restraint or impediment as a direct result of the challenged criminal judgment:

A. Incarceration ~~pursuant to the sentence imposed as a result of by the challenged criminal judgment which is challenged;~~

B. Other restraint, including probation, parole, or other conditional release ~~or a juvenile disposition other than incarceration or probation,~~ imposed as a result of the sentence ~~for by the challenged criminal judgment which is challenged;~~

C. ~~A sentence of unconditional~~ Unconditional discharge ~~resulting from a imposed by the challenged criminal judgment, for a period of 2 years following the date of sentence;~~

C-1. Incarceration imposed by the challenged criminal judgment that is wholly satisfied at the time of sentence imposition due to detention time credits earned under Title 17-A, section 1253, subsection 2;

D. Incarceration, other restraint or an impediment specified in paragraphs A, ~~and B and C~~ which that is to be served in the future, although the convicted or adjudicated person is not in execution of the sentence either because of release on bail pending appeal of the criminal judgment or because another sentence must be served first; ~~or~~

E. A fine imposed by the challenged criminal judgment ~~which that~~ has not been paid and in a case when a person has not inexcusably violated Title 17-A, section 1303-B or inexcusably defaulted in payment of any portion. A fine includes any imposed monetary fees, surcharges and assessments, however designated;

F. Restitution imposed by the challenged criminal judgment that has not been paid and in a case when a person has not inexcusably violated Title 17-A, section 1328-A or inexcusably defaulted in payment of any portion. Any challenge as to the amount of restitution ordered is further limited by Title 17-A, section 1330-A; or

G. Any other juvenile disposition imposed by the challenged criminal judgment;

**1-A. Present or future restraint by commitment to the Commissioner of Health and Human Services.** Present restraint or impediment as a direct result of commitment to the custody of the Commissioner of Health and Human Services pursuant to section 103 imposed as a result of being found not criminally responsible by reason of ~~mental disease or defect,~~ insanity that is challenged, or future restraint or impediment as a result of such an order of commitment that is challenged when a sentence involving imprisonment is or will be served first.

A claim for postconviction review is not allowed under this subsection relative to any court proceeding or administrative action that affects release or discharge pursuant to section 104-A;

**2. Post-sentencing proceeding.** Incarceration or increased incarceration imposed pursuant to a post-sentencing proceeding following a criminal judgment, although the criminal judgment itself is not challenged; or

**3. Present indirect impediment.** Present restraint or impediment resulting indirectly from the challenged criminal judgment of this State:

A. Incarceration ~~pursuant to a sentence imposed in this State, in another state or in a Federal Court pursuant to a sentence for a subsequent criminal judgment~~ for a crime punishable by incarceration for a year or more, if the length of the incarceration ~~being~~ is greater than it would otherwise have been in the absence of the challenged criminal judgment of this State. The prior criminal judgment ~~which that~~ is challenged must be for a crime punishable by incarceration for a year or more. This requirement is not satisfied by a showing only that the court imposing the present sentence was aware of the challenged criminal judgment or if it appears from the length or seriousness of the person's total criminal record that the challenged criminal judgment, taking into account its seriousness and date, could have little or no effect on the length of incarceration under the subsequent sentence;

~~B. A pending trial or incarceration pursuant to a sentence following a criminal judgment in this State, in another state or in a Federal Court for a crime, the degree of which or the potential penalty of which is increased as a result of the challenged criminal judgment of this State. This requirement is not satisfied unless:~~

(1) ~~The subsequent crime, as enhanced, is, in the case of a crime in this State, punishable by incarceration of one year or more or, in the case of a crime in another jurisdiction, is a felony or an infamous crime; and~~

(2) ~~If a sentence for the subsequent crime has been imposed, the length of that sentence ac-~~

~~tually exceeds the amount of incarceration which could have been imposed for the subsequent crime had its potential penalty not been enhanced by the challenged criminal judgment; or~~

~~C. A pending trial or any of the restraints or impediments specified in subsection 1 following a criminal judgment in this State, another state or in a Federal Court for a crime for which proof of the criminal judgment of this State that is challenged constitutes an element of the subsequent crime.~~

~~D. Incarceration pursuant to a sentence imposed in this State, in another state or in a Federal Court for a crime for which proof of the criminal judgment of this State that is challenged is an element of, or must constitutionally be treated as an element of, the new crime. This requirement is not satisfied unless the new crime is, in the case of a crime in this State, punishable by incarceration of one year or more or, in the case of a crime in another jurisdiction, a felony or an infamous crime; or~~

~~E. A criminal judgment in this State pursuant to a plea of guilty or nolo contendere accepted by a trial court on or after March 31, 2010 by a represented defendant who is not a United States citizen and who under federal immigration law, as a consequence of the particular plea, is subject to a pending deportation proceeding.~~

**Sec. 8. 15 MRSA §2125**, as amended by PL 1981, c. 238, §2, is further amended to read:

**§2125. Ground for relief**

A person who satisfies the prerequisites of section 2124 may show that the challenged criminal judgment or sentence is unlawful or unlawfully imposed, or that the impediment resulting from the challenged post-sentencing ~~procedure~~ proceeding is unlawful, as a result of any error or ground for relief, whether or not of record, unless the error is harmless or unless relief is unavailable for a reason provided in section 2126 or 2128.

**Sec. 9. 15 MRSA §2128**, as amended by PL 1997, c. 399, §§3 and 4 and affected by §5, is further amended to read:

**§2128. Waiver of grounds for relief**

A person under restraint or impediment specified in section 2124 shall demonstrate that any ground of relief is has not unavailable on the basis of waiver as described in subsections 1 to 5 been waived. The bases of waiver are as follows.

**1. Errors claimable on direct appeal.** Errors at the trial ~~which that~~ have been or could have been raised on a direct appeal, whether or not such an appeal was taken, may not be raised in an action for post-

conviction review under this chapter; ~~provided, except~~ that if the failure of the convicted or adjudicated person to take an appeal or to raise certain issues on appeal is excusable and the errors not appealed may result in reversal of the criminal judgment, the court may order that an appeal be taken as provided in section 2130.

~~**2. Errors claimable in federal habeas corpus.** The assertion of a right under the Constitution of the United States shall not be held waived by its nonassertion at trial or on appeal if the assertion of the right would be held not waived in a federal habeas corpus proceeding brought by the convicted or adjudicated person, pursuant to the United States Code, Title 28, sections 2241 to 2254.~~

**3. Waiver of grounds not raised in prior post-conviction review action.** All grounds for relief from a criminal judgment or from a post-sentencing proceeding shall must be raised in a single post-conviction review action and any grounds not so raised are waived unless the State or Federal Constitution of Maine or the Constitution of the United States otherwise ~~require~~ requires or unless the court determines that the ground could not reasonably have been raised in an earlier action.

**4. Prior challenges.** A person who has previously challenged a criminal judgment or a post-sentencing proceeding under former Title 14, sections 5502 to 5508 or its predecessors shall may not challenge the criminal judgment or post-sentencing proceeding by post-conviction review unless the court determines that a ground claimed in the action for post-conviction review could not reasonably have been raised in the earlier action.

~~**5. Filing deadline for direct impediment.** A one year period of limitation applies to initiating a petition for post conviction review seeking relief from a criminal judgment under section 2124, subsection 1 or 1 A. The limitation period runs from the latest of the following:~~

~~A. The date of final disposition of the direct appeal from the underlying criminal judgment or the expiration of the time for seeking the appeal;~~

~~B. The date on which the constitutional right, state or federal, asserted was initially recognized by the Law Court or the Supreme Court of the United States, if the right has been newly recognized by that highest court and made retroactively applicable to cases on collateral review; or~~

~~C. The date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.~~

~~The time during which a properly filed petition for writ of certiorari to the Supreme Court of the United States with respect to the same criminal judgment is~~

pending is not counted toward any period of limitation under this subsection.

**6. Filing deadline for indirect impediment.** A one-year period of limitation applies to initiating a petition for post-conviction review seeking relief from a criminal judgment under section 2124, subsection 3. The limitation period runs from the date of imposition of a sentence for the new crime resulting in the indirect impediment.

**Sec. 10. 15 MRSA §2128-A** is enacted to read:

**§2128-A. Exceptions to waiver**

The assertion of a right under the Constitution of the United States may not be held waived by its nonassertion at trial or on appeal if the assertion of the right would be held not waived in a federal habeas corpus proceeding brought by the convicted or adjudicated person pursuant to 28 United States Code, Sections 2241 to 2254.

**Sec. 11. 15 MRSA §2128-B** is enacted to read:

**§2128-B. Time for filing**

The following filing deadlines apply.

**1. Filing deadline for direct impediment.** A one-year period of limitation applies to initiating a petition for post-conviction review seeking relief from a criminal judgment under section 2124, subsection 1 or 1-A. The limitation period runs from the latest of the following:

A. The date of final disposition of the direct appeal from the underlying criminal judgment or the expiration of the time for seeking the appeal;

B. The date on which the constitutional right, state or federal, asserted was initially recognized by the Law Court or the Supreme Court of the United States if the right has been newly recognized by that highest court and made retroactively applicable to cases on collateral review; or

C. The date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

The time during which a properly filed petition for writ of certiorari to the Supreme Court of the United States with respect to the same criminal judgment is pending is not counted toward any period of limitation under this subsection.

**2. Filing deadline for post-sentencing proceedings.** A one-year period of limitation applies to initiating a petition for post-conviction review seeking relief from a post-sentencing proceeding under section 2124, subsection 2. The limitation period runs from the later of the following:

A. The date of filing of the final judgment in the court proceeding occurring during the course of and pursuant to the operation of the underlying sentence that results in incarceration or increased incarceration; or

B. The date of the final administrative action occurring during the course of and pursuant to the operation of the underlying sentence that results in incarceration or increased incarceration.

**3. Filing deadline for indirect impediment.** A one-year period of limitation applies to initiating a petition for post-conviction review seeking relief from a criminal judgment under section 2124, subsection 3, paragraphs A and D. The one-year limitation period runs from the date of imposition of a sentence for the new crime resulting in the indirect impediment. A 60-day period of limitation applies to initiating a petition for post-conviction review seeking relief from a criminal judgment under section 2124, subsection 3, paragraph E. The 60-day limitation period runs from the date the noncitizen becomes aware, or should have become aware, that under federal immigration law, as a consequence of the particular plea, a deportation proceeding has been initiated against the noncitizen.

**Sec. 12. 15 MRSA §2129, sub-§4**, as repealed and replaced by PL 1981, c. 238, §5, is amended to read:

**4. Bail pending disposition of petition.** Pending final disposition, the assigned justice or judge may order the release of the petitioner on bail at such time and under such circumstances and conditions as the Supreme Judicial Court shall provides by rule provide.

**Sec. 13. 15 MRSA §2138, sub-§12**, as enacted by PL 2001, c. 469, §1, is amended to read:

**12. Exhaustion.** A person who has taken a direct appeal from the judgment of conviction is not precluded from utilizing the remedy of this chapter while the appeal is pending, provided that as long as the resolution of the motion is automatically stayed pending final disposition of the direct appeal unless the Supreme Judicial Court, sitting as the Law Court, on motion otherwise directs.

A person who has initiated a collateral attack upon the judgment of conviction under chapter 305-A is not precluded from utilizing the remedy of this chapter while that post-conviction review proceeding is pending, provided that as long as resolution of the motion is automatically stayed pending final disposition of the post-conviction review proceeding unless the assigned justice or judge in the post-conviction review proceeding otherwise directs.

**Sec. 14. Application.** If the date of the filing of the final judgment in the court proceeding or administrative action under the Maine Revised Statutes, Title 15, section 2124, subsection 2 occurred prior to

the effective date of this Act, the one-year limitation period under Title 15, section 2128-B, subsection 3 runs from the effective date of this Act.

**Sec. 15. Application.** If the date a noncitizen becomes aware, or should have become aware, that under federal immigration law, as a consequence of the particular plea, a deportation proceeding has been initiated against that noncitizen is on or after March 31, 2010, but prior to the effective date of this Act, the 60-day limitation period under the Maine Revised Statutes, Title 15, section 2128-B, subsection 3 runs from the effective date of this Act.

See title page for effective date.

## CHAPTER 602

H.P. 1342 - L.D. 1820

### An Act To Implement Recommendations To Provide Additional Flexibility for Funding Infrastructure Improvements for Water Utilities

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

**Sec. 1. 35-A MRSA §6105, sub-§4, ¶E**, as amended by PL 2003, c. 529, §1, is further amended to read:

E. To provide for a contingency allowance as provided in section 6112; ~~and~~

**Sec. 2. 35-A MRSA §6105, sub-§4, ¶F**, as enacted by PL 1989, c. 59, §3, is amended to read:

F. To provide for rate adjustments to reflect the cost of anticipated construction of plants or facilities required by the 1986 amendments to the United States Safe Drinking Water Act, Public Law 93-523, or related projects, ~~provided except that rates established under this paragraph shall are~~ not be subject to section 6104-; ~~and~~

**Sec. 3. 35-A MRSA §6105, sub-§4, ¶G** is enacted to read:

G. To provide for recovery of the amounts necessary to fund the replacement of water system infrastructure. Those funds must be deposited in a capital reserve account and used in accordance with section 6107-A.

**Sec. 4. 35-A MRSA §6107-A** is enacted to read:

### **§6107-A. Funding for infrastructure improvements for water utilities**

Notwithstanding chapter 3, a water utility may fund future infrastructure improvements through recovery in rates and fund completed infrastructure replacement or repairs through the establishment of a surcharge in accordance with this section and rules adopted by the commission. Nothing in this section may be construed to exempt any expenditure by a water utility from review by the commission in accordance with this Title.

**1. Recovery in rates.** A water utility may recover in rates the amounts necessary to fund the future replacement of water system infrastructure. Those funds must be deposited in a capital reserve account.

**2. Commission review of capital reserve account.** A water utility shall provide to the commission an annual accounting of all revenues deposited into and expenditures made from the water utility's capital reserve account. Money in the capital reserve account is not considered unappropriated retained earnings for the purpose of section 6112, subsection 5.

**3. Infrastructure replacement surcharge.** A water utility may establish and file, pursuant to section 307, a temporary surcharge to allow recovery of the costs of completed replacement or repairs of water system infrastructure. The temporary surcharge may continue until the water utility's next rate case under chapter 3 or rate filing pursuant to sections 6104 and 6104-A and in accordance with section 6105.

If a water utility elects to institute an infrastructure replacement surcharge pursuant to this subsection, the water utility shall file the proposed surcharge with a justification for the implementation of the surcharge with the commission no less than 30 days before the effective date of the surcharge. The commission may investigate the surcharge in accordance with section 1303 to determine if the surcharge is just and reasonable. If the commission investigates the surcharge, the commission shall make its determination within 75 days of the filing and shall approve the surcharge if it is determined to be just and reasonable and deny the surcharge if it is determined not to be just and reasonable.

**4. Limitations.** A water utility may not expend amounts collected pursuant to subsection 1 for any purpose other than infrastructure improvements in accordance with this section and rules adopted by the commission.

**5. Rules.** The commission shall adopt rules to implement this section, including but not limited to rules governing the maximum amount of funds that may be recovered through rates or surcharges under this section, the authorized uses of those funds and

reporting requirements and procedures to ensure that this section is being implemented in a manner that is consistent with just and reasonable rate-making principles, including a requirement that utilities submit an infrastructure needs assessment plan when establishing and using a capital reserve account. Rules adopted under this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 603**

**S.P. 645 - L.D. 1850**

**An Act To Assist Maine's  
Current and Former Members  
of the United States  
Armed Forces**

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

**Sec. 1. 10 MRSA §8002, sub-§10**, as amended by PL 2007, c. 466, Pt. C, §4, is further amended to read:

**10. Confidentiality of shared information.** Keep confidential any information provided by or to the commissioner that has been designated confidential by the agency, bureau, board or commission within or affiliated with the department that furnished the information and that is the property of the agency, bureau, board or commission that furnished the information. Any information provided pursuant to this subsection may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency, bureau, board or commission that furnished the information; ~~and~~

**Sec. 2. 10 MRSA §8002, sub-§11**, as enacted by PL 2007, c. 466, Pt. C, §5, is amended to read:

**11. Report on fees.** By December 1st of each even-numbered year, conduct a review of the fees assessed by the department and provide a written report to the State Budget Officer and the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs, insurance and financial services matters and business, research and economic development matters identifying any fee changes the commissioner recommends for the next biennium; and

**Sec. 3. 10 MRSA §8002, sub-§12** is enacted to read:

**12. Recommend measures.** Recommend legislation or other measures to the Governor and the Legislature for the purpose of assisting current and former members of the United States Armed Forces in obtaining any professional license within the provisions of

the department related to their relevant training and experience from their military service.

See title page for effective date.

**CHAPTER 604**

**H.P. 1374 - L.D. 1856**

**An Act To Implement Certain  
Recommendations of the  
Criminal Law Advisory  
Commission**

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

**Sec. 1. 15 MRSA §1094-A** is enacted to read:

**§1094-A. Improper contact after bail has been revoked and denied**

A person is guilty of improper contact after bail has been revoked and denied if, while being detained as a result of the person's preconviction or post-conviction bail having been revoked and denied, the person intentionally or knowingly makes direct or indirect contact with a person when that contact was prohibited under a former condition of release. Violation of this section is a Class D crime.

**Sec. 2. 30-A MRSA §1803**, as enacted by PL 2003, c. 228, §1, is amended to read:

**§1803. Relationship to other laws**

This chapter provides an alternative method for carrying out the purposes of this chapter and is supplemental to powers conferred by other laws, and is not in derogation of any existing powers. Any reference to "county jail" or "jail" in the Maine Revised Statutes includes the Lincoln and Sagadahoc Multi-county Jail.

**Sec. 3. 34-A MRSA §11203, sub-§6, ¶B**, as amended by PL 2009, c. 365, Pt. B, §10 and affected by §22, is further amended to read:

B. A violation under former Title 17, section 2922; former Title 17, section 2923; former Title 17, section 2924; Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; former Title 17-A, section 255, subsection 1, paragraph A, E, F, G, I or J; former Title 17-A, section 255, subsection 1, paragraph B or D if the crime was not elevated a class under former Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, ~~F-2~~, G, I, J, K, L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; Title 17-A, section 259; Title 17-A, section 282; Title 17-A, section 283; Title 17-A, section 284; Title 17-A, section 301, subsection 1, paragraph A,

subparagraph (3), unless the actor is a parent of the victim; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855;

**Sec. 4. Retroactivity.** That section of this Act that amends the Maine Revised Statutes, Title 34-A, section 11203, subsection 6, paragraph B applies retroactively to September 28, 2011.

See title page for effective date.

## CHAPTER 605

S.P. 672 - L.D. 1896

### An Act To Provide a Temporary Registration Permit to Certain Members of the Armed Forces

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

**Sec. 1. 29-A MRSA §462-A** is enacted to read:

**§462-A. Temporary registration permit; United States Armed Forces deployments; rules**

Upon application to the Secretary of State and evidence of insurance as required by section 402, the Secretary of State may issue a temporary registration permit to a member of the United States Armed Forces authorizing that member to operate a motor vehicle or trailer for a period of 30 days if that member has returned to the State from a deployment outside the continental United States, unless the provisions of section 353 apply. The application required by this section may be completed by an authorized representative of the member of the United States Armed Forces. The Secretary of State may delegate the authority granted under this section and may adopt rules to establish the application criteria. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

## CHAPTER 606

H.P. 1351 - L.D. 1831

### An Act To Allow Forfeiture of Maine Public Employees Retirement System Benefits for Persons Convicted of Certain Crimes

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

**Sec. 1. 2 MRSA §1-A, sub-§3** is enacted to read:

**3. Forfeiture and restitution.** The rights and benefits of a member or retiree under this section are subject to forfeiture or assignment to the member's spouse, dependent or former spouse in accordance with the provisions of Title 5, section 17062.

**Sec. 2. 3 MRSA §703, sub-§2**, as amended by PL 2007, c. 137, §1, is further amended to read:

**2. Accumulated contributions available for child support.** A member's accumulated contributions, ~~which~~ that are refundable under sections 805-A and 805-B; are available to satisfy a child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process; ~~and~~

**Sec. 3. 3 MRSA §703, sub-§3**, as enacted by PL 1991, c. 746, §1 and affected by §10, is amended to read:

**3. Qualified domestic relations order.** The rights and benefits of a member or retiree under this chapter are subject to the rights of or assignment to an alternate payee, as defined in Title 5, section 17001, subsection 3-B, under a qualified domestic relations order in accordance with Title 5, section 17059-; ~~and~~

**Sec. 4. 3 MRSA §703, sub-§4** is enacted to read:

**4. Forfeiture and restitution.** The rights and benefits of a member or retiree under this chapter are subject to forfeiture or assignment to the member's spouse, dependent or former spouse in accordance with the provisions of Title 5, section 17062.

**Sec. 5. 4 MRSA §1203, sub-§2**, as amended by PL 2007, c. 137, §5, is further amended to read:

**2. Accumulated contributions available for child support.** A member's accumulated contributions, ~~which~~ that are refundable under sections 1305-A and 1305-B; are available to satisfy a child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process; ~~and~~

**Sec. 6. 4 MRSA §1203, sub-§3**, as enacted by PL 1991, c. 746, §2 and affected by §10, is amended to read:

**3. Qualified domestic relations order.** The rights and benefits of a member or retiree under this chapter are subject to the rights of or assignment to an alternate payee, as defined in Title 5, section 17001, subsection 3-B, under a qualified domestic relations order in accordance with Title 5, section 17059-; ~~and~~

**Sec. 7. 4 MRSA §1203, sub-§4** is enacted to read:

**4. Forfeiture and restitution.** The rights and benefits of a member or retiree under this chapter are subject to forfeiture or assignment to the member's spouse, dependent or former spouse in accordance with the provisions of Title 5, section 17062.

**Sec. 8. 5 MRSA §17054, sub-§2**, as amended by PL 2007, c. 137, §9, is further amended to read:

**2. Accumulated contributions available for child support.** A member's accumulated contributions, ~~which that~~ are refundable under sections 17705-A, 17706-A, 18306-A and 18307-A, are available to satisfy any child support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process;

**Sec. 9. 5 MRSA §17054, sub-§3**, as amended by PL 2009, c. 322, §1, is further amended to read:

**3. Recovery of overpayments by the retirement system.** Any amounts due the retirement system as the result of overpayment or erroneous payment of benefits, an excess refund of contributions or overpayment or erroneous payment of life insurance benefits may be recovered from an individual's contributions, any benefits or life insurance benefits payable under this Part to the individual or the beneficiary of the individual or any combination of contributions and benefits. If the overpayment or excess refund of contributions resulted from a mistake of or incorrect information provided by an employee of the retirement system, or a mistake of the retiree or the recipient of the benefit or life insurance benefit, a penalty or interest may not be assessed by the retirement system. In all cases of recovery of overpayments through the reduction of a retirement benefit, whether with or without the assessment of interest by the retirement system, the recovery practices must be reasonable and consider the personal economic stability of the retiree in the establishment of the recovery schedule. The executive director may also take action to recover those amounts due from any amounts payable to the individual by any other state agency or by an action in a court of competent jurisdiction. Whenever the executive director makes a decision to recover any amounts under this subsection, that decision is subject to appeal under section 17451.

Employers are responsible for enrolling employees in the correct retirement plan. The retirement system shall provide training, education and information to assist employers in the correct enrollment of employees. If an employee is enrolled in the incorrect retirement plan by the employer through no fault of the employee, the employee may not lose any retirement benefits. The State is not responsible for the employer contribution when the employer is a school district, municipality or county and those contributions and

assessed interest, if applicable, must be paid to the retirement system by the school district, municipality or county; ~~and~~

**Sec. 10. 5 MRSA §17054, sub-§4**, as amended by PL 2005, c. 560, §1 and affected by §5, is further amended to read:

**4. Qualified domestic relations order.** The rights of a member, retiree, beneficiary or other payee under this Part are subject to the rights of or assignment to an alternate payee under a qualified domestic relations order in accordance with section 17059; ~~and~~

**Sec. 11. 5 MRSA §17054, sub-§5** is enacted to read:

**5. Forfeiture and restitution.** The rights and benefits of a member or retiree under this Part are subject to forfeiture or assignment to the member's spouse, dependent or former spouse in accordance with the provisions of Title 5, section 17062.

**Sec. 12. 5 MRSA §17062** is enacted to read:

**§17062. Forfeiture of benefits for crime; restitution**

**1. Crime.** If a member is convicted of or pleads guilty or no contest to a crime committed in connection with the member's public office or public employment or to a crime the member's position placed the member in a position to commit, the member's right to receive any benefit or payment of any kind under this Part is subject to the following.

A. If the penalties for the crime are greater than or equal to the penalties for a Class C crime, the court may order the forfeiture of the member's right to receive any benefit or payment of any kind under this Part except a return of the amount contributed by the member to the retirement system without interest, subject to paragraph B.

B. If the court orders the member to make restitution to the State or any political subdivision of the State for monetary loss incurred as a result of the crime, the court may order that restitution payments be made by the retirement system from the amount contributed by the member to the retirement system.

C. Subject to the requirements of subsection 2, the court may award to the member's spouse, dependent or former spouse as an alternate payee some or all of the amount that, but for the forfeiture under paragraph A, may otherwise be payable. Upon order of the court, the retirement system shall provide information concerning the member's membership that the court considers relevant to the determination of the amount of an award under this paragraph. In determining the award, the court shall consider the totality of the circumstances, including, but not limited to:

(1) The role, if any, of the member's spouse, dependent or former spouse in connection with the crime;

(2) The degree of knowledge, if any, possessed by the member's spouse, dependent or former spouse in connection with the crime; and

(3) The extent to which the spouse, dependent or former spouse was relying on the forfeited benefits.

**2. Benefit award requirements.** An award ordered under subsection 1, paragraph C may not require the retirement system to:

A. Provide a type or form of benefit or an option not otherwise provided by the retirement system;

B. Provide increased benefits determined on the basis of actuarial value; or

C. Take an action contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to the spouse, dependent or former spouse.

See title page for effective date.

## CHAPTER 607

### H.P. 1211 - L.D. 1602

#### An Act To Remove the \$100 Reporting Fee for Fertilizer and Agricultural Liming Materials Sold

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

**Sec. 1. 7 MRSA §743-A, sub-§1**, as enacted by PL 2009, c. 393, §3, is amended to read:

**1. Registrants required to report.** On or before September 1st of each year, a registrant shall file with the commissioner, on a form prescribed by the commissioner, the number of tons of each brand and grade of commercial fertilizer sold by the registrant in the State during the 12 months preceding July 1st of that year. A fee of \$1 per ton ~~or \$100 for each brand and grade of fertilizer, whichever is more~~, sold during the 12 months preceding July 1st of that year must accompany the form.

**Sec. 2. 7 MRSA §766, sub-§1**, as amended by PL 2009, c. 393, §5, is further amended to read:

**1. By registrants.** On or before September 1st in each year each registrant shall file with the commissioner, on forms prescribed by the commissioner, the number of tons of each agricultural liming material sold during the 12 months preceding July 1st of that

year. A fee of \$1 per ton ~~or \$100 for each brand of agricultural liming material, whichever is more~~, sold during the 12 months preceding July 1st of that year must accompany the form.

**Sec. 3. Report to the joint standing committee of the Legislature having jurisdiction over agricultural matters.** The Department of Agriculture, Food and Rural Resources, referred to in this section as "the department," shall review the types and quantities of fertilizers and liming materials required to be registered under the Maine Revised Statutes, Title 7, chapter 103, subchapters 5 and 5-A. The department shall review definitions of "commercial fertilizer," "agricultural liming materials," "plant amendment" and "soil amendment" used in those subchapters and Title 7, chapter 103, subchapter 5-B and the term "agronomic benefit" as used in Department of Environmental Protection rules pertaining to the agronomic use of residuals. The department shall determine if additional definitions or statutory provisions are needed to regulate liquid fertilizers.

The department, in consultation with the Department of Environmental Protection, shall review products derived from residuals regulated by the Department of Environmental Protection under Title 38, chapter 13 and Rule Chapter 419: Agronomic Utilization of Residuals; products derived from solid waste composting facilities regulated by the Department of Environmental Protection under Title 38, chapter 13 and Rule Chapter 410: Composting Facilities; and products derived from agricultural composting operations as defined in Title 7, section 152, subsection 1. The departments shall review and consider the development of inspection, sampling and analysis of these products and the degree of inspection, sampling and analysis warranted for each type of product. The department shall compare the anticipated revenue from fees collected under Title 7, section 743-A and section 766 with the cost of maintaining inspection, sampling and analysis of these products at a level sufficient for consumer protection.

The department shall report its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over agricultural matters no later than January 15, 2013. No later than January 15, 2013 the department shall submit legislation, including revisions to definitions, needed to implement its recommendations.

**Sec. 4. Appropriations and allocations.** The following appropriations and allocations are made.

#### AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

##### Division of Quality Assurance and Regulation 0393

Initiative: Provides allocation for one Consumer Protection Inspector position and related All Other costs

to administer the commercial fertilizer sampling program.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$65,832
All Other	\$0	\$56,155
<hr/>		
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$121,987

See title page for effective date.

**CHAPTER 608**  
**S.P. 548 - L.D. 1649**

**An Act To Authorize the Registration of Farmland**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Whereas,** maintaining agricultural production capacity is vital to rural economies; and

**Whereas,** conflict may arise from siting nonfarm development adjacent to farmland; and

**Whereas,** this legislation will reduce potential conflict by alerting buyers when they are purchasing property abutting farmland; 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. 7 MRSA §52, sub-§1,** as enacted by PL 1989, c. 478, §1, is amended to read:

**1. Abutting land.** "Abutting land" means real estate ~~which~~ that shares a common boundary, or por-

tion of a boundary, with land that is held in common ownership with land registered or being considered for registration under this chapter when the abutting real estate is within ~~100~~ 50 feet of the land registered or being considered for registration. Abutting land includes, but is not limited to, land separated by a road and within ~~100~~ 50 feet of land that is held in common ownership with land registered or being considered for registration under this chapter.

**Sec. 2. 7 MRSA §52, sub-§3-A,** as enacted by PL 2007, c. 649, §2, is amended to read:

**3-A. Farm product.** "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, grains and food crops, dairy products, poultry and poultry products, bees, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses, Christmas trees and other similar products.

**Sec. 3. 7 MRSA §52, sub-§4,** as enacted by PL 1989, c. 478, §1, is amended to read:

**4. Farmland.** "Farmland" means any tract or tracts of land used for commercial farming:

- A. That consists of 5 or more contiguous acres;
- B. That has produced a gross ~~income averaging no less than \$300 per acre for 3 or more of the previous 6 calendar years~~ annual farming income of at least \$2,000 per year from the sales value of farm products in one of the 2, or 3 of the 5, calendar years preceding the date of application for registration under this chapter; and
- C. ~~Where use of agricultural chemicals has occurred; and~~
- D. That ~~includes only the~~ is land on which ~~the crop~~ a farm product is produced.

"Farmland" does not include land used for woodlots, ~~Christmas tree production,~~ homes, farm buildings, roads, ~~pastures,~~ lawns or any area covered with non-crop vegetation that borders abutting land.

**Sec. 4. 7 MRSA §52, sub-§6** is enacted to read:

**6. Incompatible use.** "Incompatible use" means the development or use of abutting land for a well, drinking water spring or water supply intake point when that use is initiated on abutting land that is within 50 feet of farmland after that farmland has been registered under this chapter.

**Sec. 5. 7 MRSA §53-A,** as enacted by PL 1989, c. 478, §1, is amended to read:

**§53-A. Eligibility**

Any owner who intends to register land as farmland pursuant to section 53-B shall:

**1. Application.** Submit an application for review by the soil and water conservation district in which the land is located in accordance with the provisions of Title 12, section 6-A. ~~Owners of land must apply for review by March 1st of the year in which registration is desired.~~ The owner shall use an application provided by the department; and

**2. Notice of intent.** Give notice of intent to register to all abutting landowners, as indicated on municipal or state tax records, ~~by May 15th of the year in which registration is desired~~ a minimum of 15 days prior to submitting registration materials under section 53-B or 53-I. Abutters shall ~~must~~ be notified on a form provided by the department; and

~~**3. Farm and Open Space Tax Law.** Only register land classified as farmland under the Farm and Open Space Tax Law, Title 36, chapter 105, subchapter X.~~

**Sec. 6. 7 MRSA §53-B**, as enacted by PL 1989, c. 478, §1, is amended to read:

**§53-B. Registration in 1990 and 1991**

An owner of land may register any designated portion of that land ~~which~~ that qualifies as farmland under this chapter as follows.

**1. Registration dates.** Registration shall ~~must~~ occur between June 1st and June 15th of 1990 or 1991.

**2. Place of registration.** Registration shall ~~must~~ occur in the office of the municipality in which the land is located. In the event there is no official municipal office, the registration shall ~~must~~ take place with the town assessor. In the event the farmland is located in the unorganized territory, the registration shall ~~must~~ take place in the office of the county in which the land is located.

**3. Effective date.** A registration shall ~~take~~ takes effect 15 days after receipt of notice by the municipality and abutting owners. If review proceedings are initiated under section 54, the registration is effective when upheld by the municipality.

**4. Duration.** A registration made under this chapter ~~remains effective until within the time frame provided under subsection 1 that has not been withdrawn in accordance with section 53-E~~ remains in effect until April 1, 2013. To maintain registration under this chapter after April 1, 2013, a landowner must initially renew registration of the farmland in accordance with subsection 6 and every 5 years thereafter in accordance with section 53-I, subsection 4.

**5. Registry of deeds.** A copy of the municipal or county registration and any withdrawal bearing the certification of a notary public that the copy is a true and accurate copy shall ~~must~~ be recorded in the registry of deeds of the county in which the registered farmland or any abutting property is located, and shall

must be indexed in the Grantor index under the entry "Farmland" and filed under "F."

**6. Renewal.** To renew a registration of farmland that was registered within the time frame provided under subsection 1, the landowner must submit to the department a copy of the notarized registration recorded with the registry of deeds under subsection 5 and comply with the renewal requirements under section 53-I, subsection 4.

A landowner who is unable to demonstrate compliance with all registration requirements under this section may apply for registration under section 53-I but after April 1, 2013 is no longer protected from inconsistent development under section 56, subsection 1.

**Sec. 7. 7 MRSA §53-C**, as enacted by PL 1989, c. 478, §1, is amended to read:

**§53-C. Registration contents and purpose**

The purpose of a registration is to provide a public record of the existence of actively used farmland in order to assist public disclosure ~~under section 55~~ and the setback of ~~incompatible inconsistent~~ development under section 56. A registration shall ~~must~~ include:

**1. Landowner.** The name and address of the landowner;

**2. Certification.** Certification by the applicable soil and water conservation district that the land is farmland in accordance with the provisions of Title 12, section 6-A;

~~**3. Farm and open space classification.** Notice from the municipal assessor that the land is classified under Title 36, chapter 105, subchapter X;~~

**4. Crops.** The types of farm products that are grown on the farmland to be registered;

**5. Acreage.** The acreage of farmland to be registered;

~~**6. Income.** The gross income of the farmland for each of the previous 6 years;~~

**7. Maps.** A copy of the municipal tax map, ~~where~~ when available, and a statement of the tax parcel number or numbers ~~which~~ that include the land at issue and any other maps needed to clearly show the location of the land, including a depiction of the distance between ~~crop producing~~ areas producing farm products and any property boundary within 100 feet for farmland registered within the time frame provided under section 53-B, subsection 1 and 50 feet for farmland registered pursuant to section 53-I;

**8. Deed.** A copy of the registrant's deed; and

**9. Abutter.** The names and addresses of each abutting landowner to whom notice is being sent pursuant to section 53-D.

Records of registered farmland ~~shall~~ must be maintained by each municipality and county registry of deeds in accordance with the provisions of this chapter. Registration ~~shall~~ must be on forms provided by the department.

**Sec. 8. 7 MRSA §53-E**, as enacted by PL 1989, c. 478, §1, is amended to read:

**§53-E. Withdrawal**

An owner of farmland shall withdraw from registration any farmland that no longer qualifies for registration under this chapter. An owner of registered farmland may withdraw farmland from registration at any time by filing a written notice of withdrawal in the office in which the farmland was registered and filing a notarized copy of the withdrawal notice for recording with the registry of deeds in the county or counties where the registration was recorded. Portions of a registered tract of farmland may be withdrawn. Withdrawal from registration under this chapter does not constitute withdrawal from classification under the Farm and Open Space Tax Law, Title 36, chapter 105, subchapter ~~X~~ 10. Any abutter ~~shall~~ must be notified in the manner provided in section 53-D using a form provided by the department.

**Sec. 9. 7 MRSA §53-F**, as enacted by PL 1989, c. 478, §1, is repealed.

**Sec. 10. 7 MRSA §53-G**, as enacted by PL 1989, c. 478, §1, is repealed.

**Sec. 11. 7 MRSA §53-H, sub-§6** is enacted to read:

**6. Renewal.** The department shall provide forms for renewal of farmland registered within the time frame provided under section 53-B, subsection 1 and forms for renewal of farmland registered pursuant to section 53-I.

**Sec. 12. 7 MRSA §53-I** is enacted to read:

**§53-I. Registration and renewal on or after July 1, 2012**

Beginning on July 1, 2012, an owner of land may register any designated portion of that land that qualifies as farmland under this chapter by filing the information required under section 53-C with the department and the appropriate registry of deeds in accordance with this section.

**1. Registry of deeds.** Beginning on July 1, 2012, a landowner registering farmland under this chapter shall file a notarized copy of the completed registration form accompanied by the information required under section 53-C with the registry of deeds of the county or counties in which the registered farmland and any abutting property is located.

**2. Effective date.** A registration is effective upon filing with the registry of deeds under subsection 1.

**3. Duration.** A registration made under this chapter remains effective for 5 years from the effective date unless withdrawn earlier in accordance with section 53-E.

**4. Renewal.** A landowner may renew a registration under this chapter for successive 5-year periods. To renew a registration, a landowner must notify abutters as provided under section 53-A, subsection 2 and submit a completed renewal application for certification by the soil and water conservation district under Title 12, section 6-A. Upon receiving certification from the soil and water conservation district, the landowner must file a notarized copy of the renewed registration with the registry of deeds under subsection 1 and submit a copy to the department. When a landowner submits an application for renewal and a review under Title 12, section 6-A prior to a registration lapsing, the registration on that farmland remains in effect until the application for renewal is approved or denied.

**Sec. 13. 7 MRSA §54, sub-§5** is enacted to read:

**5. Order to withdraw.** If the department or a municipality finds that farmland registered under this chapter is not eligible for registration, the department or municipality shall order the landowner to file for withdrawal under section 53-E.

**Sec. 14. 7 MRSA §55**, as enacted by PL 1989, c. 478, §1, is repealed.

**Sec. 15. 7 MRSA §56**, as enacted by PL 1989, c. 478, §1, is amended to read:

**§56. Prohibited acts**

**1. Inconsistent development.** ~~No~~ An owner of abutting land may not undertake or allow any inconsistent development upon or use of land within 100 feet of ~~properly~~ registered farmland that was properly registered within the time frame provided under section 53-B, subsection 1 and has been continuously and properly registered since the initial registration.

**1-A. Incompatible use.** Except as provided in section 57, an owner of abutting land may not undertake or allow an incompatible use within 50 feet of farmland properly registered under section 53-I.

**2. Building permit.** Except as provided in section 57, ~~no~~ a municipality may not issue a building or use permit allowing any development ~~which~~ or use that is prohibited under subsection 1 or 1-A.

**3. Exemption.** This section ~~shall~~ does not apply to:

A. Any ~~For~~ land adjacent to farmland registered within the time frame provided under section

53-B, subsection 1, a lot or parcel of land ~~which that~~, together with any adjoining lot or parcel in the same ownership, was one acre or less in area as of January 1, 1988;

A-1. For land adjacent to farmland registered pursuant to section 53-I, a lot or parcel of land that, together with any adjoining lot or parcel in the same ownership, was one acre or less in area as of January 1, 2012:

B. Those subdivisions for which a completed application as described in former Title 30, section 4956, subsection 2, paragraph C-1, or Title 30-A, section 4403, subsection 3, has been filed or approved in the 2 years preceding the registration; or

C. A lot on which inconsistent development or incompatible use has been allowed by permit granted by a state or local government in the 2 years preceding the registration.

**Sec. 16. 7 MRSA §57**, as enacted by PL 1989, c. 478, §1, is amended to read:

#### §57. Variance

An owner of real estate may apply to the municipal zoning board of appeals or other municipal body hearing zoning appeals, or, in the case of areas within its jurisdiction, the Maine Land Use Regulation Commission, for a variance permitting an inconsistent development upon or incompatible use of land ~~which that~~ is otherwise prohibited under section 56. Notwithstanding Title 30-A, section 4353, subsection 4, a variance may be issued if adherence to section 56 renders a parcel of land subdivided prior to registration of the farmland unusable for residential purposes. Any variance granted for such a purpose ~~shall~~ must be conditioned to provide the maximum feasible setback from the abutting registered farmland.

**Sec. 17. 7 MRSA §58, sub-§2, ¶A**, as enacted by PL 1989, c. 478, §1, is repealed.

**Sec. 18. 12 MRSA §6-A**, as amended by PL 2007, c. 649, §6, is further amended to read:

#### §6-A. Farmland registration

In addition to the powers assigned in section 6, a soil and water conservation district shall review applications for the registration of farmland pursuant to Title 7, chapter 2-B. The district shall, by majority vote of the supervisors, certify whether the land described in the application:

**1. Acreage.** Consists of 5 or more contiguous acres;

**2. Farm products.** Includes only land ~~where agricultural chemicals, as defined in Title 7, section 52, were~~ used in the production of farm products, as de-

finied in Title 7, section 52, subsection 3-A, in ~~3 or more of the previous 6~~ one of the 2, or 3 of the 5, calendar years preceding the date of application for registration under Title 7, chapter 2-B; and

**3. Relationship to boundary established.** Is within ~~400~~ 50 feet of any property boundary and that the application includes a depiction of the distance between any ~~crop-producing~~ producing farm products under consideration and any property boundary within ~~400~~ 50 feet that is sufficient to determine the impact of Title 7, section 56, subsection ~~4,~~ 1-A on abutting land.

**4. Renewal.** For farmland registered within the time frame provided under section 53-B, subsection 1, continues to meet the eligibility requirements of Title 7, section 53-A that were in effect at the time the land was registered.

~~A district shall complete its review under this section must be completed by May 1st of the calendar year in which the application is made within 60 days of receiving an application.~~

**Sec. 19. Directive to the Department of Agriculture, Food and Rural Resources.** The Department of Agriculture, Food and Rural Resources shall revise forms and other materials to be provided under the Maine Revised Statutes, Title 7, section 53-H to accommodate the registration of farmland under Title 7, chapter 2-B. The department shall consult with the soil and water conservation districts on the process for review and certification of farmland under Title 12, section 6-A. If needed, the department may submit legislation to revise requirements and implement an efficient process for the registration of farmland.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect July 1, 2012.

Effective July 1, 2012.

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## CHAPTER 609

### H.P. 1214 - L.D. 1605

#### An Act To Promote Agricultural Activity in Maine by Limiting the Liability for Agritourism Activities

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

**Sec. 1. 7 MRSA c. 8-E** is enacted to read:

**CHAPTER 8-E**  
**AGRITOURISM ACTIVITIES**

**§251. Definitions**

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

**1. Agritourism activity.** "Agritourism activity" means any agricultural activity carried out on a farm or ranch that members of the general public are allowed to view or participate in, including farming, ranching, historical and cultural activities, harvest-your-own activities and attractions related to farming or ranching. An activity is an agritourism activity whether or not the participant pays to view or participate in the activity.

**2. Agritourism professional.** "Agritourism professional" means a person who is engaged in the business of farming or ranching and provides one or more agritourism activities, whether or not for compensation.

**3. Farm or ranch.** "Farm" or "ranch" means the land, plants, animals, buildings, structures, ponds and machinery used in the commercial production of agricultural products.

**4. Farming or ranching.** "Farming" or "ranching" means primarily engaging in the commercial production of agricultural products as a livelihood and includes dairy farming; raising livestock, freshwater fish, fur-bearing animals or poultry; producing, cultivating, growing and harvesting fruit, produce or floricultural or horticultural commodities; or any practices on a farm or ranch that are incident to or in conjunction with these farming operations.

**5. Inherent risks of agritourism activity.** "Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity, including but not limited to:

**A.** Certain hazards including surface and subsurface conditions and natural conditions of land, vegetation and waters;

**B.** The behavior of wild and domestic animals, including but not limited to the depositing of manure;

**C.** Ordinary dangers of structures or equipment ordinarily used in farming and ranching; and

**D.** The potential for injury to a participant or others if the participant acts in a negligent manner, including failing to follow instructions given by an agritourism professional or failing to exercise reasonable caution while engaging in an agritourism activity.

**6. Participant.** "Participant" means any person, other than the agritourism professional, who engages

in an agritourism activity, whether or not a fee is paid to view or participate in the agritourism activity.

**§252. Liability**

**1. No liability.** Except as provided in subsection 2, an agritourism professional is not liable for any property damage or damages arising from the personal injury of a participant resulting from the inherent risks of agritourism activities. Except as provided in subsection 2, a participant or participant's representative may not make any claim or recover from an agritourism professional for property damage or damages for personal injury resulting from the inherent risks of agritourism activities. A participant expressly assumes the risk and legal responsibility for any property damage or damages arising from personal injury that results from the inherent risk of agritourism activities. A participant has the sole responsibility for knowing the range of that person's ability to participate in an agritourism activity. It is the duty of a participant to act within the limits of the participant's own ability, to heed all warnings and refrain from acting in a manner that may cause or contribute to the injury of any person or damage to any property.

**2. Exceptions.** Nothing in subsection 1 prevents or limits the liability of an agritourism professional if the agritourism professional:

**A.** Commits an act or omission that constitutes negligence or reckless disregard for the safety of others, and that act or omission causes an injury. For purposes of this section, "reckless" has the same meaning as "recklessly," as defined in Title 17-A, section 35, subsection 3, paragraph A;

**B.** Has actual knowledge or reasonably should have known of a dangerous condition of the land, facilities or equipment used in an agritourism activity or the dangerous propensity of a particular animal used in the agritourism activity and does not make the danger known to a participant, and the danger causes an injury; or

**C.** Intentionally injures a participant.

**3. Assumption of risk.** In a personal injury action against an agritourism professional, a defense or immunity described in subsection 1 may be asserted only if the participant injured in the course of an agritourism activity had been notified of the inherent risks of an agritourism activity and the limitations of liability.

For purposes of this subsection, notice of the inherent risks of agritourism activities may be satisfied either by a statement signed by the participant or a sign or signs prominently displayed at the place or places where the agritourism activities take place. The statement or sign must contain the following information.

"WARNING

Under Maine law, there is no liability for injury to a participant in an agritourism activity conducted at this agritourism location if such injury results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment and animals, as well as the potential for injury if you act in a negligent manner. You are assuming the risk of participating in this agritourism activity."

The message on the sign must be in black letters at least one inch in height and the sign or signs must be placed in a clearly visible location on or near the places where the agritourism professional conducts agritourism activities.

See title page for effective date.

**CHAPTER 610****S.P. 601 - L.D. 1753****An Act To Improve  
Transportation in the State**

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

**PART A**

**Sec. A-1. 6 MRSA c. 4,** as amended, is repealed.

**Sec. A-2. 6 MRSA §102, sub-§2, ¶A,** as enacted by PL 1977, c. 678, §33, is amended to read:

A. All aircarrier and commuter aircarrier airports, ~~as defined under chapter 4,~~ shall designate a person generally available who ~~shall have~~ has administrative responsibility for operation and management of the airport. All general aviation commercial airports, as defined under chapter 6, shall have at least a part-time airport manager.

**Sec. A-3. 6 MRSA §102, sub-§2, ¶C,** as enacted by PL 2007, c. 76, §1, is repealed.

**Sec. A-4. 6 MRSA §202, sub-§5,** as repealed and replaced by PL 1977, c. 678, §41 and amended by PL 1995, c. 504, Pt. B, §10, is repealed.

**Sec. A-5. 6 MRSA §202, sub-§7,** as amended by PL 1977, c. 678, §43, is repealed.

**Sec. A-6. 6 MRSA c. 15,** as amended, is repealed.

**Sec. A-7. 36 MRSA §1482, sub-§1, ¶A,** as amended by PL 2007, c. 627, §31, is further amended to read:

A. For the privilege of operating an aircraft within the State, each heavier-than-air aircraft or lighter-than-air aircraft operated in this State that

is owned or controlled by a resident of this State is subject to an excise tax computed as follows: 9 mills on each dollar of the maker's average equipped price for the first or current year of model; 7 mills for the 2nd year; 5 mills for the 3rd year; 4 mills for the 4th year; and 3 mills for the 5th and succeeding years. The minimum tax is \$10. Nonresidents of this State who operate aircraft within this State for compensation or hire ~~and are required to register under Title 6~~ must pay 1/12 of the tax amount computed as required in this paragraph for each calendar month or fraction thereof that the aircraft remains in the State.

**Sec. A-8. 36 MRSA §1484, sub-§1,** as amended by PL 2007, c. 627, §33, is further amended to read:

**1. Aircraft.** The excise tax on an aircraft must be paid to the ~~Department of Transportation. The Department of Transportation shall distribute the receipts from each excise tax payment to the~~ municipality where the aircraft is based except as follows.

A. If the aircraft is based at an airport owned by a county, the excise tax payments must be ~~distrib-~~ uted paid to that county.

B. If the aircraft is based at the Augusta State Airport, the excise tax payments must be ~~retained by the Department of Transportation paid to the~~ City of Augusta.

For the purposes of this subsection, an aircraft is deemed to be based at the location in the State where it has been hangared, parked, tied down or moored the most nights during the 30-day period of active flying preceding payment of the excise tax. If the aircraft has not been hangared, parked, tied down or moored at a location in the State during the 30-day period of active flying preceding payment, then the aircraft is deemed to be based at the location in the State where it will be hangared, parked, tied down or moored the most nights during the 30-day period of active flying next following payment of the excise tax.

**Sec. A-9. 36 MRSA §1486, first ¶,** as amended by PL 1995, c. 65, Pt. A, §139 and affected by §153 and Pt. C, §15, is further amended to read:

No vehicle may be registered under Title 29-A ~~or Title 6~~ until the excise tax or personal property tax or real estate tax has been paid in accordance with sections 1482 and 1484.

**PART B**

**Sec. B-1. 23 MRSA §73, sub-§6,** as enacted by PL 2007, c. 470, Pt. B, §1, is repealed.

**Sec. B-2. 23 MRSA §73, sub-§7** is enacted to read:

**7. Priorities, service levels, capital goals and reporting.** The Department of Transportation shall

classify the State's public highways as Priority 1 to Priority 6 corridors using factors such as the federal functional classification system, regional economic significance, heavy haul truck use and relative regional traffic volumes. The department shall also establish customer service levels related to safety, condition and serviceability appropriate to the priority of the highway, resulting in a system that grades each highway as Excellent, Good, Fair, Poor or Unacceptable.

To provide a capital transportation program that is geographically balanced and that addresses urban and rural needs, the department shall include the following goals as part of its capital improvement plans and program delivery. The goals are to:

A. By 2022, improve all Priority 1 and Priority 2 corridors so that their safety, condition and serviceability customer service level equals Fair or better;

B. By 2027, improve all Priority 3 corridors so that their safety, condition and serviceability customer service level equals Fair or better;

C. By 2017, implement a pavement program for all Priority 4 corridors that maintains their ride quality customer service level at Fair or better;

D. Continue the light capital paving program on a 7-year cycle for Priority 5 corridors outside compact areas as defined in section 754; and

E. By 2015, develop and implement a similar asset priority and customer service level system of measurement for all major freight and passenger transportation assets owned or supported by the department, including capital goals.

The department shall report to the joint standing committee of the Legislature having jurisdiction over transportation matters by March 1st of each odd-numbered year quantifying progress realized and time that has elapsed since the goals were established. The department shall recommend any remedial actions, including additional funding or revisions to the goals, that the department determines to be necessary or appropriate.

**Sec. B-3. 30-A MRSA §6006-G, sub-§1,** as enacted by PL 2007, c. 470, Pt. D, §1, is amended to read:

**1. Establishment; purposes.** The TransCap Trust Fund, referred to in this section as "the fund," is established in the custody of the bank to provide transportation capital investment for the Department of Transportation and municipalities in accordance with this section. The purpose of the fund is to provide financial assistance for the planning, design, acquisition, reconstruction and rehabilitation of transportation capital improvements of all modes including improvements that will forward the capital goals set forth in Title 23, section 73, subsection 6 7.

**Sec. B-4. 30-A MRSA §6006-G, sub-§4,** as enacted by PL 2007, c. 470, Pt. D, §1, is amended to read:

B. To guarantee or insure, directly or indirectly, the payment of notes or bonds issued or to be issued by the State for the purpose of financing capital improvements that will forward the capital goals set forth in Title 23, section 73, subsection 6 7;

### PART C

**Sec. C-1. 23 MRSA §1201, sub-§16-A,** as repealed and replaced by PL 1983, c. 323, is repealed.

### PART D

**Sec. D-1. Legislative findings regarding Portsmouth-Kittery bridges.** The Legislature makes the following findings.

1. Three bridges over the Piscataqua River connect Kittery, Maine with Portsmouth, New Hampshire: the Interstate 95 High Level Bridge, also known as the Piscataqua River Bridge; the Sarah Mildred Long Bridge, also known as the Long Bridge; and the Memorial Bridge.

A. The Piscataqua River Bridge, designated by the Department of Transportation as Bridge Number 6330, is a high-level, steel through truss with shared truss spans 1,334 feet long with 6 vehicle lanes. Completed in 1972, the Piscataqua River Bridge is the primary economic connection between Maine and New Hampshire, carrying approximately 75% of the traffic carried by all 3 bridges. The Piscataqua River Bridge is critical to the viability of the Maine Turnpike specifically and interstate commerce generally.

B. The Long Bridge, designated by the Department of Transportation as Bridge Number 3641, is a steel vertical lift bridge with deck truss, roadway, rail and approaches having a total span of approximately 2,800 feet. Completed in 1940, the Long Bridge carries the 2 vehicle lanes of the U.S. Route 1 bypass and serves as a critical backup route in the event of a disruption of service on the Piscataqua River Bridge. The Long Bridge carries the rail line used by the naval shipyard in Kittery and services heavy truck transit to and from the commercial service stations along the U.S. Route 1 bypass. Structural deterioration of the Long Bridge has resulted in limiting vehicle weight to 20 tons. The Long Bridge has a remaining life expectancy of 4 to 6 years.

C. The Memorial Bridge, designated by the Department of Transportation as Bridge Number 2546, is a steel vertical lift bridge with through truss approaches having a total truss span length of about 900 feet. Completed in 1923, the Memorial Bridge carries the 2 vehicle lanes of U.S.

Route 1 and links the thriving business, social, religious and arts communities of Kittery, Maine and Portsmouth, New Hampshire. The Memorial Bridge provides the only bicycle and pedestrian crossing over the Piscataqua River between Kittery and Portsmouth. Due to structural deterioration, the Memorial Bridge has been closed to vehicular traffic since July of 2011 and is currently undergoing replacement.

2. The capital improvement, maintenance and operations of these 3 bridges represent a significant financial challenge for the State of Maine and will affect the ability of the State to improve highways and bridges statewide.

3. In terms of importance to the economic well-being of the State of Maine, the Piscataqua River Bridge is first in priority, followed by the Long Bridge, followed by the Memorial Bridge, as the Memorial Bridge serves more local interests.

4. In the fall of 2010, a multi-year study of all connections between Kittery, Maine and Portsmouth, New Hampshire found, among other things, that 10 vehicle lanes crossing the Piscataqua River will be needed in 2035 based upon assumed growth rates in the Portsmouth-Kittery area. The study also found that all 3 bridge crossings are needed to serve all modes of transportation. During the study, various options were considered, including replacement of the Long Bridge as proposed by the Maine Department of Transportation and replacement of the Memorial Bridge and rehabilitation of the Long Bridge as proposed by the New Hampshire Department of Transportation.

5. On October 4, 2010, the Governor of Maine and the Governor of New Hampshire issued concurrent executive orders, Maine Executive Order number 04 FY11/12 and New Hampshire Executive Order number 2010-4, respectively, to create the Bi-State Bridge Funding Task Force. In order to seek a cooperative, comprehensive, sustainable, cost-effective and long-term solution that addresses all 3 bridges, the executive orders established a 6-member task force with 3 members from Maine and 3 members from New Hampshire. Members included the commissioners of transportation from both states and the chair of the Maine Turnpike Authority.

6. In a report dated December 15, 2010, the Bi-State Bridge Funding Task Force recommended: funding a \$90,000,000 replacement of the Memorial Bridge to commence in 2011; funding a \$110,000,000 rehabilitation of the Long Bridge to commence in 2016; revitalizing the Interstate Bridge Authority; and creating a sinking fund to be supported equally by Maine and New Hampshire, with the Maine Turnpike Authority assisting with the Maine share. The sinking fund would be managed by the Interstate Bridge Authority and would finance the operation, capital repair

and rehabilitation of the Piscataqua River Bridge and the Long Bridge.

7. In accordance with the Bi-State Bridge Funding Task Force report, Maine and New Hampshire entered into a memorandum of agreement regarding the 3 bridges on March 1, 2011. The purpose of the agreement was to: establish a cooperative, long-term understanding between Maine and New Hampshire regarding the 3 bridges; memorialize and forward the task force recommendations; determine respective responsibilities; secure a federal Transportation Investment Generating Economic Recovery grant for the Memorial Bridge project; and define and limit overall financial obligations of both states with respect to the 3 bridges.

8. The memorandum of agreement called for New Hampshire to be the lead on a \$90,000,000 replacement of the Memorial Bridge with construction to commence in 2011, Maine to be the lead on a \$110,000,000 rehabilitation of the Long Bridge with construction to commence in 2014 and the revitalized Interstate Bridge Authority to provide management of and sustainable funding for the Piscataqua River Bridge and the Long Bridge.

9. In accordance with the memorandum of agreement, on August 12, 2011, the Maine Department of Transportation executed a \$5,700,000 design contract for the rehabilitation of the Long Bridge. Approximately \$1,000,000 has been expended under this contract as of March 1, 2012. Based upon this work, including more detailed inspections, it has been determined by the department that the Long Bridge can be rehabilitated in accordance with the scope established in the memorandum of agreement.

10. The contract for the Memorial Bridge replacement received final approval by New Hampshire officials on December 14, 2011. Demolition of the Memorial Bridge has begun.

11. Concerns regarding maritime users and related future economic effects recently have risen to prominence for New Hampshire. New Hampshire Department of Transportation officials have stated that the scope of the rehabilitation of the Long Bridge described in the March 1, 2011 agreement is not acceptable and have requested that the Maine Department of Transportation investigate the cost of options to widen the navigational opening. These options include moving a lift span tower or replacing the entire bridge. Any of the options are beyond the scope of the rehabilitation described in the March 1, 2011 agreement and will cost tens of millions of additional dollars and likely delay start of construction to at least 2015.

12. On March 6, 2012, the New Hampshire Legislature's House Public Works and Highways Committee unanimously voted in favor of an amendment that provides that New Hampshire's share of the cost of

rehabilitating or reconstructing the Long Bridge over the Piscataqua River between Portsmouth, New Hampshire and Kittery, Maine is contingent upon the center lift span being of sufficient length to allow safe passage of the upcoming generation of cargo vessels to ensure the economic well-being of the Port of Portsmouth and the businesses utilizing this important shipping lane.

13. This shift in policy by New Hampshire officials represents a substantial change to the scope of work described in the March 1, 2011 memorandum of agreement, which will require reevaluation of costs and schedules and the likely renegotiation, revision or replacement of the memorandum of agreement.

14. The timely delivery of a new or rehabilitated Long Bridge is critical to Maine. The New Hampshire Department of Transportation lists the Long Bridge at the top of its "red list" of bridges in poor condition, indicating that the Long Bridge remains a top priority for New Hampshire as well.

15. At this time, the Maine Legislature cannot discern any significant economic benefit to the State from a wider navigational opening, but understands that New Hampshire policymakers now desire to improve maritime safety and ensure the economic well-being of the portion of the Port of Portsmouth located upriver of the Long Bridge.

16. The Maine Legislature desires to give policy direction that governs future renegotiation, agreements and possible future legislation to be proposed.

**Sec. D-2. Revised agreement regarding 3 Portsmouth-Kittery bridges.** Any revised or new agreement with New Hampshire regarding any or all of the 3 bridges referenced in section 1 must provide that the financial liability of the State of Maine will not be substantially greater than its liability under the terms of the March 1, 2011 memorandum of agreement. The financial liability of the Maine Turnpike Authority may not be substantially greater than its liability under the terms of the March 1, 2011 memorandum of agreement or the recommendations of the December 15, 2011 Bi-State Bridge Funding Task Force report.

**Sec. D-3. Reestablishment of Maine-New Hampshire Interstate Bridge Authority; Maine Turnpike Authority transfer.** The Department of Transportation shall develop proposed legislation to reestablish the Maine-New Hampshire Interstate Bridge Authority and implement the recommendations of the Bi-State Bridge Funding Task Force. The proposed legislation must authorize the Department of Transportation to transfer to the Maine Turnpike Authority the southerly 1.9 miles of Interstate 95 located in Kittery from a point near Spruce Creek to a point near the abutment of the Interstate 95 Piscataqua River Bridge and to use the proceeds of the

transfer for the Long Bridge project. The proposed legislation must include membership of a Maine Turnpike Authority official on the Interstate Bridge Authority and a sinking fund to be managed by the Interstate Bridge Authority for the maintenance, operation and capital improvement of the Piscataqua River Bridge and the Long Bridge as described in section 1.

**Sec. D-4. Report and legislation.** The Department of Transportation shall submit the proposed legislation developed pursuant to section 3 to the joint standing committee of the Legislature having jurisdiction over transportation matters no later than December 16, 2012. Following receipt and review of the proposed legislation, the joint standing committee may submit legislation to the First Regular Session of the 126th Legislature concerning the proposed legislation.

**PART E**

**Sec. E-1. Bridge named.** The Department of Transportation shall designate Bridge 3009 over the West Branch of the Penobscot River in the Town of Medway the Nicatou Bridge.

See title page for effective date.

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**CHAPTER 611**

**H.P. 1243 - L.D. 1691**

**An Act Related to Specialty  
Tiers in Prescription  
Medication Pricing**

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

**Sec. 1. 24-A MRS §4317-A** is enacted to read:

**§4317-A. Prescription drug coverage; out-of-pocket expenses for coinsurance**

**1. Out-of-pocket expenses for coinsurance within health plan's total limit.** If a carrier that provides coverage for prescription drugs does not include prescription drugs subject to coinsurance under the total out-of-pocket limit for all benefits provided under a health plan, the carrier shall establish a separate out-of-pocket limit not to exceed \$3,500 per year for prescription drugs subject to coinsurance provided under a health plan to the extent not inconsistent with the federal Affordable Care Act.

**2. Adjustment of out-of-pocket limits.** A carrier may adjust an out-of-pocket limit, as long as any limit for prescription drugs for coinsurance does not exceed \$3,500, to minimize any premium increase that might otherwise result from the requirements of this section. Any adjustment made by a carrier pursuant to this subsection is considered a minor modification under section 2850-B.

**3. Construction.** This section may not be construed to prohibit or limit a carrier's ability to establish specialty tiers for prescription drug coverage, to make determinations of medical necessity or to enforce procedures regarding prior authorization or utilization review in accordance with this chapter.

**4. Terms consistent with federal law.** For the purposes of this section, the use of the terms "coinsurance" and "out-of-pocket limit" by a carrier must be consistent with the definitions of those terms as prescribed by the Secretary of the United States Department of Health and Human Services pursuant to Section 2715 of the federal Affordable Care Act.

**Sec. 2. Application.** The requirements of this Act apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2013. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

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## CHAPTER 612

S.P. 643 - L.D. 1849

### An Act To Protect Landlocked Salmon Fisheries in Schoodic and Seboeis Lakes from Invasive Fish Species

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

**Sec. 1. 12 MRSA §12760**, as amended by PL 2011, c. 24, §§1 and 2, is further amended to read:

**§12760. Fishways in dams and other artificial obstructions**

**1. Commissioners' authority.** In order to conserve, develop or restore anadromous or migratory fish resources, the commissioner and the Commissioner of Marine Resources jointly may require a fishway to be erected, maintained, repaired or altered by the owners, lessors or other persons in control of any dam or other artificial obstruction within inland waters frequented by alewives, shad, salmon, sturgeon or other anadromous or migratory fish species.

The ~~commissioner~~ commissioners may not require or authorize a fishway or fish bypass structure at a dam on the outlet of Sebec Lake in the Town of Sebec or at a dam on the Sebec River in the Town of Milo or at a dam on the outlet of Schoodic Lake in Lake View Plantation or at a dam on the outlet of Seboeis Lake in Township 4, Range 9 NWP that would allow the upstream passage of an invasive fish species known to be present downstream in the Piscataquis River or Penob-

scot River drainage. For the purposes of this section, "invasive fish species" means those invasive fish species identified in the action plan for managing invasive aquatic species developed pursuant to Title 38, section 1872.

**2. Examination of dams.** The commissioner and the Commissioner of Marine Resources shall periodically examine all dams and other artificial obstructions to fish passage within the inland waters in order to determine whether fishways are necessary, sufficient or suitable for the passage of anadromous or migratory fish.

**3. Monitoring program.** The commissioner and the Commissioner of Marine Resources shall, ~~in cooperation with the Department of Marine Resources,~~ establish a program to ensure fishways are functioning properly and remain sufficient or suitable for the passage of anadromous or migratory fish. ~~The commissioner has~~ commissioners have sole authority to take corrective action at fishways as prescribed under this section.

**4. Initiation of fishway proceedings.** The commissioner and the Commissioner of Marine Resources shall initiate proceedings to consider construction, repair or alteration of fishways in existing dams or other artificial obstructions whenever the ~~commissioner determines~~ commissioners determine that one or more of the following conditions may exist:

A. Fish passage at the dam or obstruction in issue, whether alone or in conjunction with fish passage at other upriver barriers, will improve access to sufficient and suitable habitat anywhere in the watershed to support a substantial commercial or recreational fishery for one or more species of anadromous or migratory fish; or

B. Fish passage at the dam or obstruction in issue is necessary to protect or enhance rare, threatened or endangered fish species.

**5. Adjudicatory proceedings.** A fishway proceeding must conform to the following requirements:

A. A fishway proceeding must be an adjudicatory proceeding under Title 5, chapter 375, subchapter 4, but a hearing is not required unless requested in accordance with paragraph B. Notice of the proceeding must be given in accordance with Title 5, section 9052 and the following requirements:

(1) Personal notice must be given to the dam owner, lessee or other person in control of the dam or artificial obstruction, informing that person that a proceeding has been undertaken and informing that person of that person's right to request a hearing; and

(2) Notice to the public, in newspapers of general circulation in the areas affected, must be given notifying the public of the initiation

of the proceedings and of the public's opportunity to request a hearing.

B. If any interested person requests a public hearing, the commissioner ~~and the Commissioner of Marine Resources~~ shall, within 30 days, either notify the petitioners in writing of the ~~commissioner's~~ commissioners' denial, stating the reasons for the denial, or schedule a public hearing. The ~~commissioner~~ commissioners shall hold a public hearing whenever:

- (1) The ~~commissioner is~~ commissioners are petitioned by 50 or more residents of the State; or
- (2) The owner, lessee or other person in control of the dam or artificial obstruction requests a hearing.

C. The commissioner ~~and the Commissioner of Marine Resources~~ shall accept testimony from the owner, lessee or other person in control of the dam or artificial obstruction on alternate fishway designs to those proposed by the ~~commissioner~~ commissioners for that dam or artificial obstruction.

**6. Decision.** In the event that the commissioner ~~decides~~ and the Commissioner of Marine Resources decide that a fishway should be constructed, repaired, altered or maintained pursuant to this section, the ~~commissioner~~ commissioners shall issue final orders with specific plans and descriptions of the fishway construction, alteration, repair or maintenance requirements, the conditions of the use of the fishway and the time and manner required for fishway operation. The ~~commissioner~~ commissioners may issue a decision requiring the owners, lessees or other persons in control of the dam or obstruction to construct, repair, alter or maintain a fishway. Such a decision must be supported by a finding based on evidence submitted to the ~~commissioner~~ commissioners that either of the following conditions exist:

- A. One or more species of anadromous or migratory fish can be restored in substantial numbers to the watershed by construction, alteration, repair or maintenance of a fishway and habitat anywhere in the watershed above the dam or obstruction is sufficient and suitable to support a substantial commercial or recreational fishery for one or more species of anadromous or migratory fish; or
- B. The construction, alteration, repair or maintenance of a fishway is necessary to protect or enhance rare, threatened or endangered fish species.

In the event that the ~~commissioner decides~~ commissioners decide that ~~no~~ a fishway should ~~not~~ be constructed, the ~~commissioner~~ commissioners shall specify in that decision a period not to exceed 5 years sub-

sequent to that decision during which ~~no~~ a fishway may ~~not~~ be required to be constructed.

**7. Compliance.** The owner, lessee or other person in control of a dam or other artificial obstruction is jointly and severally liable for the costs of fishway design, construction, repair, alteration or maintenance, and for full compliance with a decision issued pursuant to subsection 6.

A. If the owner, lessee or other person in control of a dam or other artificial obstruction refuses to comply or does not fully comply with the ~~commissioner's~~ decision issued pursuant to subsection 6, the commissioner ~~and the Commissioner of Marine Resources~~ shall initiate a civil action to enjoin the owner, lessee or person in control of the dam to comply fully with the ~~commissioner's~~ commissioners' order or to restrain the violation of an order. In the proceeding, the court may not review the legality of the ~~commissioner's~~ commissioners' order, except when the owner, lessee or person in control of the dam or artificial obstruction has brought a timely petition for judicial review pursuant to Title 5, chapter 375, subchapter 7.

B. The court may render judgment against and order the sale of the dam or other artificial obstruction, the land on which it stands and a right-of-way to the dam or artificial obstruction, in order to secure the costs of fishway construction, repair, alteration or maintenance, the costs of the court-ordered sale and the costs incurred by the department for fishway design. The purchaser of the dam or other obstruction is subject to the ~~commissioner's~~ decision issued pursuant to subsection 6.

**8. Privileged entry.** The commissioner ~~and the Commissioner of Marine Resources~~, the ~~commissioner's~~ commissioners' agents or subcontractors may enter upon any private land in order to examine, at least annually, fishways in dams or other artificial obstructions and dams as provided in subsection 2. The ~~commissioner~~ commissioners shall notify the landowner, lessee or other person in control of the dam when the examination will take place and the time required to complete the examination. The ~~commissioner~~ commissioners shall make every effort to preserve private land and shall restore surrounding lands to the grade and condition existing prior to entry, if economically feasible.

**9. Certain lakes, rivers and streams; fishways prohibited.** Notwithstanding any other provision of law to the contrary, the owners, lessors or other persons in control of a dam on the outlet of Sebec Lake in the Town of Sebec, of Schoodic Lake in Lake View Plantation or of Seboeis Lake or a dam on the Sebec River in the Town of Milo may not construct or authorize the construction of a fishway or fish bypass

structure that would allow the upstream passage of an invasive fish species known to be present downstream in the Piscataquis River or Penobscot River drainage.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$500 or more than \$1,000 may be adjudged.

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

**Sec. 2. 12 MRSA §12761**, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §305 and affected by §422, is further amended to read:

**§12761. Construction of new dams or other artificial obstructions**

**1. Notice required.** Prior to construction or prior to authorizing construction of a new dam or other obstruction in the inland waters, the owner, lessee or other person in control of the dam or other artificial obstruction shall provide written notice to the commissioner, and the Commissioner of Marine Resources supplying information on construction plans, proposed location and date of construction of the dam or other artificial obstruction.

**2. Initiation of fishway proceedings.** Within 30 days of receipt of the construction notice pursuant to subsection 1, the commissioner and the Commissioner of Marine Resources shall review the plans in order to determine whether fishway construction or alteration of proposed fishway construction plans may be required pursuant to the criteria set forth in section 12760, subsection 4. If the ~~commissioner determines~~ commissioners determine that the construction or alteration may be necessary, the ~~commissioner~~ commissioners shall initiate fishway proceedings and follow the procedures prescribed in section 12760.

**3. Unlawful building of dam.** A person may not build any dam or other obstruction in any of the rivers, streams or brooks of this State without first filing written notice with the commissioner and the Commissioner of Marine Resources pursuant to subsection 1.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

**Sec. 3. 38 MRSA §480-Q, sub-§27**, as enacted by PL 2009, c. 75, §3, is amended to read:

**27. Fishways.** Erection, maintenance, repair or alteration of a fishway in a dam or other artificial obstruction when required by the Commissioner of Inland Fisheries and Wildlife and the Commissioner of

Marine Resources pursuant to Title 12, section 12760 or by the Commissioner of Marine Resources pursuant to Title 12, section 6121;

See title page for effective date.

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**CHAPTER 613**

**S.P. 487 - L.D. 1530**

**An Act To Amend the Housing Provisions of the Maine Human Rights Act**

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

**Sec. 1. 5 MRSA §4553, sub-§1-D** is enacted to read:

**1-D. Aggrieved person.** "Aggrieved person" includes any person who claims to have been subject to unlawful discrimination. "Aggrieved person" also includes any person who claims to have been injured by unlawful housing discrimination.

**Sec. 2. 5 MRSA §4553, sub-§1-E** is enacted to read:

**1-E. Complainant.** "Complainant" means a person who files a complaint under section 4611 or a civil action under section 4621.

**Sec. 3. 5 MRSA §4553, sub-§1-F** is enacted to read:

**1-F. Conciliation.** "Conciliation" means the attempted resolution of issues raised by a complaint filed under section 4611 or by an investigation of such a complaint through informal negotiations involving the complainant, the respondent and the commission.

**Sec. 4. 5 MRSA §4553, sub-§1-G** is enacted to read:

**1-G. Conciliation agreement.** "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

**Sec. 5. 5 MRSA §4553, sub-§5-B** is enacted to read:

**5-B. Family.** "Family" includes, but is not limited to, a single individual.

**Sec. 6. 5 MRSA §4553, sub-§6**, as corrected by RR 1999, c. 2, §2, is amended to read:

**6. Housing accommodation.** "Housing accommodation" includes any building or structure or portion thereof, or any parcel of land, developed or undeveloped, ~~which that~~ is occupied, or is intended to be occupied or to be developed for occupancy, for residential purposes, ~~excepting:~~

~~A. The rental of a one family unit of a 2 family dwelling, one unit of which is occupied by the owner;~~

~~B. The rental of not more than 4 rooms of a one family dwelling which is occupied by the owner; or~~

~~C. The rental of any dwelling owned, controlled or operated for other than a commercial purpose, by a religious corporation to its membership unless such membership is restricted on account of race, color or national origin.~~

**Sec. 7. 5 MRSA §4553, sub-§7**, as amended by PL 1975, c. 182, §1, is further amended to read:

**7. Person.** "Person" includes one or more individuals, partnerships, associations, organizations, corporations, municipal corporations, legal representatives, trustees, trustees in bankruptcy, receivers and other legal representatives, labor organizations, mutual companies, joint-stock companies and unincorporated organizations and includes the State and all agencies thereof.

**Sec. 8. 5 MRSA §4553, sub-§§9-F and 9-G** are enacted to read:

**9-F. Rent.** "Rent" includes to lease, to sublease, to let or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

**9-G. Respondent.** "Respondent" means a person accused of unlawful discrimination in a complaint filed under section 4611 or a civil action filed under section 4621.

**Sec. 9. 5 MRSA §4553, sub-§10, ¶G**, as enacted by PL 2005, c. 10, §6, is amended to read:

G. Discrimination in employment, housing, public accommodation, credit and educational opportunity on the basis of sexual orientation, except that a religious corporation, association or organization that does not receive public funds is exempt from this provision with respect to:

- (1) Employment, as is more fully set forth in section 4553, subsection 4 and section 4573-A;
- (2) ~~Housing, as is more fully set forth in section 4553, subsection 6, paragraph C;~~ and
- (3) Educational opportunity, as is more fully set forth in section 4602, subsection 4.

Any for-profit organization owned, controlled or operated by a religious association or corporation and subject to the provisions of the Internal Revenue Code, 26 United States Code, Section 511(a) is not covered by the exemptions set forth in this paragraph.

**Sec. 10. 5 MRSA §4581**, as amended by PL 2007, c. 243, §1, is further amended to read:

**§4581. Right to freedom from discrimination in housing; exceptions**

The opportunity for an individual to secure decent housing in accordance with the individual's ability to pay, and without discrimination because of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status is hereby recognized as and declared to be a civil right.

**1. Number of occupants.** Nothing in this subchapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this subchapter regarding familial status apply with respect to housing for older persons.

**2. Definition.** As used in this section, "housing for older persons" means housing:

A. Provided under any state or federal program that the United States Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program;

B. Intended for, and solely occupied by, persons 62 years of age or older; or

C. Intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this paragraph, the housing must meet at least the following factors:

- (2) That at least 80% of the dwellings are occupied by at least one person 55 years of age or older per unit; and
- (3) The publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

**3. Requirements.** Housing ~~shall~~ does not fail to meet the requirements for "housing for older persons" by reason of:

A. Persons residing in the housing as of the date of enactment of this subsection who do not meet the requirements of subsection 2, paragraph B or C, ~~provided that if~~ new occupants of the housing ~~shall~~ meet the age requirements of subsection 2, paragraphs B and C; or

B. Unoccupied units, ~~provided that if~~ the units are reserved for occupancy by persons who meet the age requirements of subsection 2, paragraphs B and C.

**4. Housing accommodation exceptions.** The following exceptions apply in this chapter:

A. This chapter does not prohibit the rental of any dwelling owned, controlled or operated for other than a commercial purpose by a religious corporation to its membership unless such membership is restricted on account of race, color or national origin; and

B. Except as provided in section 4581-A, subsection 1, paragraph C and section 4581-A, subsections 2 and 3, this chapter does not apply to:

(1) The rental of a one-family unit of a 2-family dwelling, one unit of which is occupied by the owner; or

(2) The rental of not more than 4 rooms of a one-family dwelling that is occupied by the owner.

**Sec. 11. 5 MRSA §4581-A** is enacted to read:

**§4581-A. Unlawful housing discrimination**

It is unlawful housing discrimination, in violation of this Act:

**1. Sale or rental of housing and other prohibited practices.** For any owner, lessee, sublessee, managing agent or other person having the right to sell or rent or manage a housing accommodation, or any agent of these, to:

A. Make or cause to be made any written or oral inquiry concerning the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of any prospective purchaser, occupant or tenant of the housing accommodation;

B. Refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any person the housing accommodation because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status;

C. Make, print or publish or cause to be made, printed or published any notice, statement or advertisement relating to the sale, rental or lease of the housing accommodation that indicates any preference, limitation or discrimination based upon race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status or an intention to make any such preference, limitation or discrimination;

D. Discriminate against any person because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status in the price, terms, conditions or privileges of the sale, rental or lease of any housing accommodations or in the furnishing of facilities or services in connection with any housing accommodations; or

E. Evict or attempt to evict any tenant of any housing accommodation because of the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of the tenant;

**2. Selling, brokering or appraising of housing.**

For any real estate broker or real estate salesperson, or any agent of these, to:

A. Fail or refuse to show any person a housing accommodation listed for sale, lease or rent because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status;

B. Misrepresent, for the purpose of discriminating because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status, the availability or asking price of a housing accommodation listed for sale, lease or rent or for such reason to fail to communicate to the person having the right to sell, rent or lease the housing accommodation any offer for the same made by any applicant;

C. In any other manner to discriminate against any applicant for a housing accommodation because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status;

D. Make or cause to be made any written or oral inquiry or record concerning the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of any applicant for or intended occupant of a housing accommodation; or

E. Accept for listing any housing accommodation when the person having the right to sell, rent or lease the housing accommodation has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status, or when the broker or salesperson knows or has reason to know that the person having the right to sell, rent or lease the housing accommodation has made a practice of discrimination since July 1, 1972;

**3. Making of loans; other financial assistance.**

For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of the person, to:

A. Make or cause to be made any oral or written inquiry concerning the race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status of any

applicant for financial assistance or of existing or prospective occupants or tenants of housing accommodations; or

B. Discriminate in the granting of financial assistance, or in the terms, conditions or privileges relating to obtaining or the use of any financial assistance, against any applicant because of race or color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status; or

4. Receipt of public assistance. For any person furnishing rental premises or public accommodations to refuse to rent or impose different terms of tenancy to any individual who is a recipient of federal, state or local public assistance, including medical assistance and housing subsidies, primarily because of the individual's status as recipient.

**Sec. 12. 5 MRSA §4582**, as amended by PL 2005, c. 10, §14, is repealed.

**Sec. 13. 5 MRSA §4582-A**, as amended by PL 2007, c. 664, §§2 to 4, is further amended to read:

**§4582-A. Unlawful housing discrimination on the basis of disability**

It is unlawful housing discrimination, in violation of this Act:

**1. Modifications.** For any owner, ~~lessee~~ lessor, ~~sublessee~~ sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit, at the expense of a person with physical or mental disability, reasonable modifications of existing premises occupied or to be occupied by that person if the modifications may be necessary to give that person full enjoyment of the premises, except that, with a rental, the landlord, when it is reasonable to do so, may condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

**2. Accommodations.** For any owner, ~~lessee~~ lessor, ~~sublessee~~ sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to make reasonable accommodations in rules, policies, practices or services when those accommodations are necessary to give a person with physical or mental disability equal opportunity to use and enjoy the housing; or

**3. Service animals.** For any owner, ~~lessee~~ lessor, ~~sublessee~~ sublessor, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation or any of their agents to refuse to permit the use of a service animal or otherwise discriminate against an individual with a physical or mental disability who uses a service animal at the housing

accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the housing accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or security deposit, although the individual with a physical or mental disability is liable for any damage done to the premises or facilities by such a service animal.

**Sec. 14. 5 MRSA §4582-C** is enacted to read:

**§4582-C. Standards for multifamily and public housing constructed on or after September 1, 2012**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alteration" means a change to a facility that affects or could affect the usability of the facility or any part of the facility, including, but not limited to, reconstruction, remodeling, rehabilitation, historic restoration, changes or rearrangement in structural parts or elements and changes or rearrangement in the plan configuration of walls and full-height partitions. "Alteration" does not include normal maintenance, decoration and upgrades, including, but not limited to, reroofing, re-siding, painting or wallpapering, replacement of doors or windows, asbestos removal and changes to mechanical and electrical systems unless they affect the usability of the facility.

B. "Builder" means the applicant for a building permit in a municipality that requires these permits or the owner of the property in a municipality that does not require building permits.

C. "Covered multifamily dwellings" means:

(1) Buildings consisting of 4 or more units if such buildings have one or more elevators; and

(2) Ground floor units in other buildings consisting of 4 or more units that have no elevators.

D. "Design professional" means an architect or professional engineer registered to practice under Title 32.

E. "New construction" includes, but is not limited to, the design and construction of facilities for first occupancy or an alteration if the cost of the alteration is 75% or more of the replacement cost of the completed facility.

F. "Public housing" means any housing that is financed in whole or in part with public funds offer-

ing housing accommodations containing 20 or more units.

G. "Standards of construction" means the most recent American National Standards Institute standards, published as ANSI A 117.1. Departures from particular technical and scoping requirements of ANSI A 117.1 by the use of other methods are permitted where substantially equivalent or greater access to and usability of the facility is provided.

2. Facilities affected. This section applies to new construction of covered multifamily dwellings and new construction and alterations of public housing if the date when the last application for a building permit or permit extension is certified to be complete by a state, county or local government or, in those jurisdictions where the government does not certify completion of applications, if the date when the last application for a building permit or permit extension received by the state, county or local government is on or after September 1, 2012 or, if no permit is required, if the start of physical construction or alterations occurs on or after September 1, 2012.

3. Unlawful housing discrimination. For purposes of this Act, unlawful housing discrimination, in addition to any violations of applicable accessible building requirements in subchapter 5, includes, but is not limited to:

A. The failure to design and construct covered multifamily dwellings subject to this section in such a manner that:

(1) The public use and common use portions of the dwellings are readily accessible to and usable by people with physical or mental disabilities;

(2) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons in wheelchairs; and

(3) All premises within the dwellings contain the following features of adaptive design:

(a) An accessible route into and through the dwelling;

(b) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(c) Reinforcements in bathroom walls to allow later installation of grab bars; and

(d) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space;

B. For new construction of public housing subject to this section, to have less than 10% of the

ground level units and less than 10% of the upper story units connected by an elevator be accessible to and usable by persons with physical disabilities, and less than 2% of the units, no fewer than one unit, with accessible communication features; and

C. For alterations to public housing units subject to this section, to fail to have the altered units meet the parts of the standards of construction concerning accessible routes, accessible doors and adaptable bathrooms until at least 10% of the total ground level units and a minimum of 10% of the total upper story units connected by an elevator meet the parts of the standards of construction concerning accessible routes, accessible doors and adaptable bathrooms.

4. Compliance with standards. Compliance with the appropriate standards of construction satisfies the requirements of this section.

5. Statement; inspection. The builder of a facility to which this section applies shall obtain a statement from a design professional that, based on professional judgment, the plans of the facility at the time of the statement meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the statement to:

A. The municipal authority that reviews plans in the municipality where the facility is to be constructed; or

B. If the municipality where the facility is to be constructed has no authority that reviews plans, the municipal officers of the municipality.

If municipal officials of the municipality where the facility is to be constructed inspect buildings for compliance with construction standards, that inspection must include an inspection for compliance with the standards required by this section. The municipal officials shall require a facility that is inspected to meet the standards of this section before the municipal officials permit the facility to be occupied.

**Sec. 15. 5 MRSA §4594, sub-§2,** as amended by PL 1991, c. 99, §24, is further amended to read:

**2. Application.** Facilities subject to this section must meet the requirements of the 1981 standards of construction adopted pursuant to Title 25, former chapter 331, to implement the following 4 parts of the American National Standards Institute's "Specification for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People," (ANSI A 117.1-1980):

- A. 4.3 Accessible Route;
- B. 4.13 Doors;
- C. 4.17 Toilet Stalls;

D. 4.29.3 Tactile Warnings on doors to Hazardous Areas; and

E. Parking spaces for use by persons with physical disability in adequate number, pursuant to section 4593, subsection 1, paragraph E.

**Sec. 16. 5 MRSA §4594-A, sub-§2, ¶A**, as amended by PL 2011, c. 322, §3, is further amended to read:

A. Facilities subject to this section constructed on or after January 1, 1984 but before January 1, 1988 must meet the requirements of the 1981 standards of construction adopted pursuant to Title 25, former chapter 331.

**Sec. 17. 5 MRSA §4594-A, sub-§2, ¶B**, as amended by PL 2011, c. 322, §3, is further amended to read:

B. Plans to reconstruct, remodel or enlarge an existing place of public accommodation, when the estimated total cost exceeds \$150,000, are subject to this section when the proposed reconstruction, remodeling or enlargement will substantially affect that portion of the building normally accessible to the public.

Facilities subject to this section that are remodeled, enlarged or renovated on or after January 1, 1984 but before January 1, 1988 must meet the requirements of the following 4 parts of the 1981 standards of construction adopted pursuant to Title 25, former chapter 331:

- (1) 4.3 accessible route;
- (2) 4.13 doors;
- (3) 4.17 toilet stalls;
- (4) 4.29.3 tactile warnings on doors to hazardous areas; and
- (5) Parking spaces for use by persons with physical disability in adequate number, pursuant to section 4593, subsection 1, paragraph E.

**Sec. 18. 5 MRSA §4611**, as amended by PL 2009, c. 235, §1, is further amended to read:

**§4611. Complaint**

Any aggrieved person ~~who believes that the person has been subject to unlawful discrimination~~, or any employee of the commission, may file a complaint under oath with the commission stating the facts concerning the alleged discrimination, except that a complaint must be filed with the commission not more than 300 days after the alleged act of unlawful discrimination. In addition, any person may file a complaint pursuant to section 4632.

**Sec. 19. 5 MRSA §4612, sub-§4, ¶A**, as amended by PL 2005, c. 10, §22, is further amended to read:

A. If the commission finds reasonable grounds to believe that unlawful discrimination has occurred, and further believes that irreparable injury or great inconvenience will be caused the victim of such discrimination or to members of a racial, color, sex, sexual orientation, physical or mental disability, religious or nationality group or age group if relief is not immediately granted, or if conciliation efforts under subsection 3 have not succeeded, the commission may file in the Superior Court a civil action seeking such relief as is appropriate, including temporary restraining orders. In a complaint investigated pursuant to a memorandum of understanding between the commission and the United States Department of Housing and Urban Development that results in a reasonable grounds determination, the commission shall file a civil action for the use of complainant if conciliation efforts under subsection 3 are unsuccessful.

**Sec. 20. 5 MRSA §4612, sub-§5**, as enacted by PL 1983, c. 281, §2, is amended to read:

**5. Confidentiality of 3rd-party records.** The Legislature finds that persons who are not parties to a complaint under this chapter as a complainant or a ~~person accused of discrimination~~ respondent have a right to privacy. Any records of the commission ~~which~~ that are open to the public under Title 1, chapter 13, ~~shall~~ must be kept in such a manner as to ensure that data identifying these 3rd parties is not reflected in the record. Only data reflecting the identity of these persons may be kept confidential.

**Sec. 21. 5 MRSA §4613, sub-§2, ¶B**, as repealed and replaced by PL 2007, c. 695, Pt. A, §7, is amended to read:

B. If the court finds that unlawful discrimination occurred, its judgment must specify an appropriate remedy or remedies for that discrimination. The remedies may include, but are not limited to:

- (1) An order to cease and desist from the unlawful practices specified in the order;
- (2) An order to employ or reinstate a victim of unlawful employment discrimination, with or without back pay;
- (3) An order to accept or reinstate such a person in a union;
- (4) An order to rent or sell a specified housing accommodation, or one substantially identical to that accommodation if controlled by the respondent, to a victim of unlawful housing discrimination;

(5) An order requiring the disclosure of the locations and descriptions of all housing accommodations that the violator has the right to sell, rent, lease or manage and forbidding the sale, rental or lease of those housing accommodations until the violator has given security to ensure compliance with any order entered against the violator and with all provisions of this Act. An order may continue the court's jurisdiction until the violator has demonstrated compliance and may defer decision on some or all relief until after a probationary period and a further hearing on the violator's conduct during that period;

(6) An order to pay the victim, in cases of unlawful price discrimination, 3 times the amount of any excessive price demanded and paid by reason of that unlawful discrimination;

(7) An order to pay to the victim of unlawful discrimination, other than employment discrimination in the case of a respondent who has more than 14 employees, or, if the commission brings action on behalf of the victim, an order to pay to the victim, the commission or both, civil penal damages not in excess of \$20,000 in the case of the first order under this Act against the respondent, not in excess of \$50,000 in the case of a 2nd order against the respondent arising under the same subchapter of this Act and not in excess of \$100,000 in the case of a 3rd or subsequent order against the respondent arising under the same subchapter of this Act, except that the total amount of civil penal damages awarded in any action filed under this Act may not exceed the limits contained in this subparagraph;

(8) In cases of intentional employment discrimination with respondents who have more than 14 employees, compensatory and punitive damages as provided in this subparagraph.

(a) In an action brought by a complaining party under section 4612 and this section against a respondent who engaged in unlawful intentional discrimination prohibited under sections 4571 to 4575, if the complaining party can not recover under 42 United States Code, Section 1981 (1994), the complaining party may recover compensatory and punitive damages as allowed in this subparagraph in addition to any relief authorized elsewhere in this subsection from the respondent.

(b) When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded under this subparagraph when the covered entity demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide that individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

(c) A complaining party may recover punitive damages under this subparagraph against a respondent if the complaining party demonstrates that the respondent engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the rights of an aggrieved individual protected by this Act.

(d) Compensatory damages awarded under this subparagraph do not include back pay, interest on back pay or any other type of relief authorized elsewhere under this subsection.

(e) The sum of compensatory damages awarded under this subparagraph for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, other nonpecuniary losses and the amount of punitive damages awarded under this section may not exceed for each complaining party:

(i) In the case of a respondent who has more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$50,000;

(ii) In the case of a respondent who has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$100,000;

(iii) In the case of a respondent who has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, \$300,000; and

(iv) In the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks

in the current or preceding calendar year, \$500,000.

(f) Nothing in this subparagraph may be construed to limit the scope of, or the relief available under, 42 United States Code, Section 1981 (1994).

(g) If a complaining party seeks compensatory or punitive damages under this subparagraph, any party may demand a trial by jury, and the court may not inform the jury of the limitations described in division (e).

(h) This subparagraph does not apply to recoveries for a practice that is unlawful only because of its disparate impact.

(i) Punitive damages may not be included in a judgment or award against a governmental entity, as defined in Title 14, section 8102, subsection 2, or against an employee of a governmental entity based on a claim that arises out of an act or omission occurring within the course or scope of that employee's employment; and

(9) In addition to other remedies in subparagraphs (1) to (8), an order to pay actual and punitive damages in the case of discriminatory housing practices. This subparagraph is not intended to limit actual damages available to a plaintiff alleging other discrimination if the remedy of actual damages is otherwise available under this Act. Punitive damages under this subparagraph may not be included in a judgment or award against a governmental entity, as defined in Title 14, section 8102, subsection 2, or against an employee of a governmental entity based on a claim that arises out of an act or omission occurring within the course or scope of that employee's employment.

**Sec. 22. 5 MRSA §4621**, as amended by PL 1979, c. 541, Pt. A, §41, is further amended to read:

**§4621. Civil action**

Within the time limited, ~~a~~ an aggrieved person who has been subject to unlawful discrimination may file a civil action in the Superior Court against the person or persons who committed the unlawful discrimination.

**Sec. 23. 5 MRSA §4622, sub-§1**, as amended by PL 2009, c. 235, §4, is further amended to read:

**1. Limitation.** Attorney's fees under section 4614 and civil penal damages or compensatory and punitive damages under section 4613 may not be awarded to a plaintiff in a civil action under this Act

unless the plaintiff alleges and establishes that, prior to the filing of the civil action, the plaintiff first filed a complaint with the commission and the commission either:

A. Dismissed the case under section 4612, subsection 2;

B. Failed, within 90 days after finding reasonable grounds to believe that unlawful discrimination occurred, to enter into a conciliation agreement to which the plaintiff was a party;

C. Issued a right-to-sue letter under section 4612, subsection 6; or

D. Dismissed the case in error.

This subsection does not apply to or limit any remedies for civil actions filed under subchapter ~~5~~ if one or more additional causes of action are alleged in the same civil action that do not require exhaustion of administrative remedies or subchapter 4 if the allegations are covered by the federal Fair Housing Act, 42 United States Code, Chapter 45.

**Sec. 24. 21-A MRSA §630, sub-§1, ¶A**, as enacted by PL 1985, c. 161, §6, is amended to read:

A. "Accessible voting place" means a voting place in a building in which the part of the building set aside for voting meets the requirements for accessible routes ~~of the 1981 standards of construction~~ described in Title ~~25~~ 5, chapter ~~334~~ 337, subchapter 5.

**Sec. 25. 23 MRSA §954**, as amended by PL 1979, c. 248, §1, is further amended to read:

**§954. Picnic areas**

The department is authorized to construct along state and state aid highways roadside picnic areas, roadside springs, scenic turnouts or other landscaping where in the opinion of the department it may seem advisable and place distinguishing signs upon the same. The department is authorized to use for the maintenance of the same such funds as are now available for maintenance of state and state aid highways. In any roadside area along any state or state aid highway where modern flush toilet facilities are provided for public use, there ~~shall~~ must be provided toilet rooms ~~which that~~ are accessible to and usable by the physically disabled, as ~~defined set out~~ in Title ~~25~~ 5, ~~sections 2701 and 2702 respectively~~ chapter 337, subchapter 5. The department shall erect and maintain signs along the approach to any roadside area where toilet facilities accessible to the disabled are available ~~which that~~ are designed to inform disabled persons that the facilities are available.

**Sec. 26. 25 MRSA c. 331**, as amended, is repealed.

**Sec. 27. 30-A MRSA §4451, sub-§2-A, ¶E**, as amended by PL 2009, c. 261, Pt. A, §14, is further amended to read:

E. Building standards under chapter 141; chapter 185, subchapter 1; Title 5, sections 4582-B, 4582-C and 4594-F; beginning June 1, 2010, Title 10, chapter 1103; and Title 25, ~~chapters~~ chapter 313 and 331.

**Sec. 28. 30-A MRSA §4452, sub-§5, ¶F**, as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 25 5, chapter 331 sections 4582-B, 4582-C and 4594-F;

**Sec. 29. Effective date.** This Act takes effect September 1, 2012.

Effective September 1, 2012.

## CHAPTER 614

### S.P. 473 - L.D. 1503

#### An Act To Promote School Attendance and Increase School Achievement

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

**Sec. 1. 4 MRSA §152, sub-§4**, as corrected by RR 2001, c. 2, Pt. A, §2, is amended to read:

**4. Exclusive jurisdiction.** Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34-B, chapter 3, subchapter 4, mental retardation certification hearings under Title 34-B, chapter 5, ~~habitual~~ truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted and small claims actions under Title 14, chapter 738;

**Sec. 2. 20-A MRSA §1, sub-§2-A, ¶C**, as enacted by PL 2007, c. 667, §3, is amended to read:

C. Is ~~habitually~~ truant; or

**Sec. 3. 20-A MRSA §1001, sub-§8-A** is enacted to read:

**8-A. Due process standards for expulsion proceedings.** Following a proper investigation of a student's behavior, a school board that intends to consider expulsion shall ensure proceedings include the following due process provisions.

A. Before a hearing on the expulsion, the superintendent shall:

(1) Provide written notice to the parents and the student of:

(a) The date, time and location of the hearing;

(b) A description of the incident or incidents that occasioned the expulsion hearing;

(c) The student's and parents' right to review the school records prior to the hearing;

(d) A description of the hearing process; and

(e) An explanation of the consequences of an expulsion; and

(2) Invite the parents and student to a meeting prior to the expulsion hearing to discuss the procedures of the hearing.

**B. At a hearing on the expulsion:**

(1) The student has the right to present and cross-examine witnesses;

(2) The student has the right to an attorney or other representation; and

(3) Witnesses must be sworn in and the chair of the hearing has the authority to swear in witnesses.

C. After a hearing on the expulsion, the school board shall provide written notice of its decision to the parents and the student by certified mail. The notice of the school board's written decision may include a reentry plan developed in accordance with subsection 9-C.

**Sec. 4. 20-A MRSA §1001, sub-§9**, as amended by PL 1997, c. 298, §1, is further amended to read:

**9. Students expelled or suspended.** Following a proper investigation of a student's behavior and due process proceedings pursuant to subsection 8-A, if found necessary for the peace and usefulness of the school, ~~they~~ a school board shall expel any student:

A. Who is deliberately disobedient or deliberately disorderly;

B. For infractions of violence;

C. Who possesses on school property a firearm as defined in Title 17-A, section 2, subsection 12-A or a dangerous weapon as defined in Title 17-A, section 2, subsection 9 without permission of a school official;

D. Who, with use of any other dangerous weapon as defined in Title 17-A, section 2, subsection 9, paragraph A, intentionally or knowingly causes

injury or accompanies use of a weapon with a threat to cause injury; or

E. Who possesses, furnishes or trafficks in any scheduled drug as defined in Title 17-A, chapter 45.

A student may be readmitted on satisfactory evidence that the behavior that was the cause of the student being expelled will not likely recur. The school board may authorize the principal to suspend students up to a maximum of 10 days for infractions of school rules. In addition to other powers and duties under this subsection, the school board may develop a policy requiring a student who is in violation of school substance abuse or possession rules to participate in substance abuse services as provided in section 6606. Nothing in this subsection or subsection 9-C prevents a school board from providing educational services in an alternative setting to a student who has been expelled.

**Sec. 5. 20-A MRSA §1001, sub-§9-C** is enacted to read:

**9-C. Reentry for students after expulsion.** Upon making a decision to expel a student in accordance with procedures set forth in subsections 8-A and 9, a school board may exercise one of the following options in expelling a student:

A. The school board may expel the student for a specific period of time not to exceed the total number of instructional days approved by the school board for the current school year; or

B. The school board may expel the student for an unspecified period of time and authorize the superintendent to provide the expelled student with a reentry plan that specifies the conditions that must be met in order for the student to be readmitted to school after the expulsion. If a school board authorizes the superintendent to provide the expelled student with a reentry plan, the school board shall ensure that the student who has been expelled is provided with a reentry plan in accordance with this paragraph.

(1) The reentry plan must be developed by the superintendent or the superintendent's designee in consultation with the student and the student's parents to provide guidance that helps the student understand what the student must do to establish satisfactory evidence that the behavior that resulted in the expulsion will not likely recur.

(2) The superintendent or the superintendent's designee shall send a certified letter, return receipt requested, or hand deliver a letter to the parents of the expelled student giving notice of the date, time and location of a meeting to develop a reentry plan for the student.

(3) If the student and the student's parents do not attend the meeting under subparagraph (2), the reentry plan must be developed by school staff.

(4) The reentry plan must be provided to the parents and the student in writing.

(5) The superintendent shall designate a school employee to review the student's progress with the reentry plan at intervals of one month, 3 months and 6 months after the meeting and at other times as determined necessary by the designated school employee.

(6) The reentry plan may require the student to take reasonable measures determined by the superintendent to be helpful to establish the student's readiness to return to school. Professional services determined to be necessary by the superintendent must be provided at the expense of the student and the student's parents.

(7) The superintendent may, as appropriate, notify an individualized education program team for a child with a disability who has been expelled by a school board.

(8) The superintendent shall annually report data on the number of students who are expelled from school and the number of students who are readmitted to school after expulsion to the commissioner's consultant on truancy, dropouts and alternative education under section 5151.

**Sec. 6. 20-A MRSA §1001, sub-§9-D** is enacted to read:

**9-D. Professional services after expulsion for a child with a disability.** Nothing in subsection 9-C may be interpreted to require payment from the parents of an expelled student for professional services determined by the superintendent to be necessary to establish the student's readiness to return to school if:

A. The student is a child with a disability who has been determined to be eligible for a free, appropriate public education in accordance with 34 Code of Federal Regulations, Section 300.530, Paragraph (d); or

B. The school administrative unit did not have knowledge that the student was a child with a disability prior to taking disciplinary measures against the student and, based on a subsequent evaluation, the student is determined to be a child with a disability who is eligible for a free, appropriate public education in accordance with 34 Code of Federal Regulations, Section 300.534, Paragraph (d).

**Sec. 7. 20-A MRSA §1001, sub-§15-A** is enacted to read:

**15-A. School disciplinary policies.** When revising the prescribed consequences for violation of the student code of conduct pursuant to subsection 15, paragraph C, a school board shall consider districtwide disciplinary policies that:

A. Focus on positive interventions and expectations and avoid focusing exclusively on unacceptable student behavior. For the purpose of this subsection, "positive interventions" means instructional and environmental supports that are designed to teach students prosocial alternatives to problem behaviors with high rates of positive feedback;

B. Focus on positive and restorative interventions that are consistent with evidence-based practices rather than set punishments for specific behavior and avoid so-called zero-tolerance practices unless specifically required by federal or state laws, rules or regulations. For the purpose of this paragraph, "restorative interventions" means school practices that are designed to strengthen relationships, improve the connection to school and promote a strong sense of accountability and that help students learn from their mistakes, understand the impact of their actions on others and find opportunities to repair the harm they have caused through their misbehavior;

C. Allow administrators to use their discretion to fashion appropriate discipline that examines the circumstances pertinent to the case at hand; and

D. Provide written notice to the parents of a student when a student is suspended from school, regardless of whether the suspension is an in-school or out-of-school suspension.

The school board shall ensure that administrators inform students, parents and school personnel of the districtwide school disciplinary policies.

**Sec. 8. 20-A MRSA §3271, sub-§3, ¶C**, as enacted by PL 1985, c. 490, §8, is amended to read:

C. A person who has been adjudged ~~an habitual~~ a truant and has been excused from attendance pursuant to procedures established by the commissioner.

**Sec. 9. 20-A MRSA §3272, sub-§1**, as enacted by PL 1985, c. 490, §8, is repealed.

**Sec. 10. 20-A MRSA §3272, sub-§2**, as repealed and replaced by PL 2007, c. 304, §1, is amended to read:

**2. Truancy.** A person is ~~habitually~~ truant if:

A. The person is required to attend school or alternative instruction and has completed grade 6

under this chapter and has the equivalent of 10 full days of unexcused absences or 7 consecutive school days of unexcused absences during a school year; or

B. The person is required to attend school or alternative instruction and is at least 7 years of age and has not completed grade 6 under this chapter and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year.

**Sec. 11. 20-A MRSA §3273, sub-§1**, as repealed and replaced by PL 2007, c. 304, §3, is amended to read:

**1. Civil violations.** A parent who has control of a person who is ~~habitually~~ truant under section 3272, subsection 2 and who is primarily responsible for that person's truancy commits a civil violation under this chapter.

**Sec. 12. 20-A MRSA §5031, sub-§1**, as enacted by PL 2009, c. 626, §1, is amended to read:

**1. Goal.** It is the goal of the State to achieve a graduation rate of 90% by the end of the 2015-2016 school year for each publicly supported secondary school. In addition to calculating the 4-year adjusted cohort graduation rate following the procedures outlined in 34 Code of Federal Regulations, Section 200.19, the department shall also calculate and record for each publicly supported secondary school:

A. Beginning with the graduation rate reported for school year 2011-2012 and for each school year thereafter, the 5-year adjusted cohort graduation rate;

B. Beginning with the graduation rate reported for school year 2012-2013 and for each school year thereafter, the 6-year adjusted cohort graduation rate; and

C. Beginning with the graduation rate reported for school year 2011-2012 and for each school year thereafter, other descriptors of academic success for school-age students on a statewide aggregate basis, including the rates of attainment of a:

(1) Department of Education diploma as described under section 5161;

(2) High school equivalency diploma as described under section 257; and

(3) High school equivalency diploma obtained through a high school completion course that includes general educational development preparation courses from an adult education program as described in chapter 315.

The department shall adopt rules specifying that the methods used to calculate publicly supported sec-

dary school graduation rates through the 2015-2016 school year must include calculations for 5-year and 6-year adjusted cohort graduation rates under paragraphs A and B and other descriptors of academic success under paragraph C.

**Sec. 13. 20-A MRSA §5051-A**, as amended by PL 2007, c. 304, §§5 to 7, is further amended to read:

**§5051-A. Truancy**

**1. Truant.** A student is ~~habitually~~ truant if the student is subject to section 5001-A and:

B. Has completed grade 6 and has the equivalent of 10 full days of unexcused absences or 7 consecutive school days of unexcused absences during a school year; or

C. Is at least 7 years of age and has not completed grade 6 and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year.

**2. Procedures; written notice; referral.** This subsection governs the procedure to be followed when a student is ~~habitually~~ truant.

~~A. If a principal of a public school and the attendance coordinator determine that a student is habitually truant, the principal shall inform the superintendent. The superintendent or the superintendent's designee shall first try to correct the problem informally. Informal attempts to correct the problem must include meeting with the student and the student's parents to identify possible causes of the habitual truancy and develop a plan to implement solutions to the problem. If an initial meeting does not resolve the problem, the superintendent or superintendent's designee shall implement interventions that best address the problem. The interventions may include, but are not limited to:~~

- ~~(1) Frequent communication between the teacher and the family;~~
- ~~(2) Changes in the learning environment;~~
- ~~(3) Mentoring;~~
- ~~(4) Student counseling;~~
- ~~(5) Tutoring, including peer tutoring;~~
- ~~(6) Placement into different classes;~~
- ~~(7) Evaluation for alternative education programs;~~
- ~~(8) Attendance contracts;~~
- ~~(9) Referral to other agencies for family services; and~~
- ~~(10) Other interventions, including, but not limited to, referral to the school attendance~~

~~coordinator, student assistance team or dropout prevention committee.~~

~~Failure of the student or the student's parents to appear at scheduled meetings does not preclude the school administrators from implementing a plan to address the student's habitual truancy.~~

A-1. The principal, upon determining that a student is truant under subsection 1, shall notify the superintendent of the student's truancy within 5 school days of the last unexcused absence.

A-2. A student who is determined truant under subsection 1 must be referred to the school's student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710 to determine the cause of the truancy and assess the effect of the student's absences, as well as any future absences for the student. If it is determined that a negative effect exists, the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710 shall develop an intervention plan to address the student's absences and the negative effect of these absences. An intervention plan may include, but is not limited to:

- (1) Frequent communication between the teacher and the family;
- (2) Changes in the learning environment;
- (3) Mentoring;
- (4) Student counseling;
- (5) Tutoring, including peer tutoring;
- (6) Placement into different classes;
- (7) Consideration of multiple pathways as described under section 4703;
- (8) Attendance contracts;
- (9) Referral to other agencies for family services; and
- (10) Other interventions, including, but not limited to, referral to the school attendance coordinator, student assistance team or dropout prevention committee.

Failure of the student or the student's parents to appear at scheduled meetings does not preclude the school administrators from implementing an intervention plan to address the student's truancy.

~~B. As part of correcting the problem informally, the superintendent or superintendent's designee shall require the student and the student's parents to attend one or more meetings with the student's teacher or other school personnel designated by~~

~~the superintendent. The purpose of the meetings is to reinforce the plan developed in paragraph A or to develop an alternative plan. The meeting or meetings may involve the presence of others, including, but not limited to, case managers, therapeutic treatment providers and representatives of the Department of Human Services, the Department of Behavioral and Developmental Services and the Department of Corrections. The superintendent or superintendent's designee shall arrange mutually convenient meeting times.~~

B-1. The superintendent shall develop procedures to refer a student who is truant to the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710 in accordance with this section. These procedures may include, but are not limited to:

(1) Identifying school personnel responsible for notifying the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system when a student is truant;

(2) A process for referral of a student who is truant, including identifying school personnel responsible for inviting the parents and the student to participate in any meeting that results from this referral;

(3) A timeline for setting up a meeting and developing an intervention plan under paragraph A-2;

(4) A plan for dealing with future absences of a student who is truant; and

(5) A plan for reporting of the results of the intervention plan developed pursuant to paragraph A-2.

C. If the superintendent or superintendent's designee intervention plan developed pursuant to paragraph A-2 is unable to correct the truancy of the child, the superintendent or superintendent's designee shall serve or cause to be served upon the parent in hand or by registered mail a written notice that attendance of the child at school is required by law. The notice must:

(1) State that the student is required to attend school pursuant to section 5001-A;

(2) Explain the parent's right to inspect the student's attendance records, attendance coordinator's reports and principal's reports;

(3) Explain that the failure to send the student to school and maintain the student in regular attendance is a civil violation in ac-

cordance with section 5053-A and explain the possible penalties will jeopardize the student's status in the grade that the student is in;

(4) State that the superintendent or the superintendent's designee may notify the local law enforcement department of a violation of this statute section 5053-A and the Department of Health and Human Services of a violation under subsection 1, paragraph C; and

(5) Outline the plan developed to address the student's ~~habitual~~ truancy and the steps that have been taken to implement that plan.

D. Prior to notifying the local law enforcement department under paragraph E, the superintendent or superintendent's designee shall schedule at least one meeting as required in paragraph B B-1 and may invite a local prosecutor.

E. If, after 3 school days after service of the notice referred to in paragraph C, the student remains truant and the parent and student refuse to attend the meeting scheduled according to paragraph D, the superintendent or superintendent's designee shall report the facts of the unlawful absence to the local law enforcement department, which may proceed with an action to enforce section 5053-A against the parent unless the student is at once placed in an appropriate school or otherwise meets the requirements under section 5001-A.

F. When a student is determined ~~habitually~~ to be truant and in violation of section 5001-A and the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710 and the superintendent or superintendent's designee has have made a good faith attempt to meet the requirements of paragraph B B-1, the superintendent or superintendent's designee shall notify the school board and the local law enforcement department of the student's truancy. ~~After this notification, a local law enforcement officer who sees the truant student may transport the truant student to the appropriate school if the truant student:~~

~~(1) Is off school grounds during school hours; and~~

~~(2) Is not under the supervision of school personnel.~~

**3. Reports.** This subsection applies to reports of ~~habitual~~ truancy.

A. A superintendent shall submit an annual report to the commissioner before October 1st. The report must:

- (1) Identify the number of ~~habitual~~ truants in the school administrative unit in the preceding school year;
- (2) Describe the unit's efforts to deal with ~~habitual~~ truancy;
- (3) Account for actions brought under this section including the number of truants reported to the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710; and
- (4) Include any other information on truancy requested by the commissioner.

B. The commissioner shall submit an annual report to the Governor and the Legislature before January 15th. The report must aggregate the information provided by superintendents under paragraph A and must evaluate the effect of state laws on the incidence of truancy.

**Sec. 14. 20-A MRSA §5052-A**, as amended by PL 2007, c. 143, §1, is further amended to read:

**§5052-A. Attendance coordinators**

The following provisions apply to attendance coordinators.

**1. Appointment.** The following provisions apply to the ~~election~~ appointment of attendance coordinators.

- A. A ~~school board~~ superintendent shall ~~elect~~ appoint an attendance coordinator or coordinators.
- B. Vacancies ~~shall~~ must be filled as they occur.

**2. Qualifications.** An attendance coordinator ~~shall~~ must be a professionally certified or registered person in the mental health, social welfare or educational system who is qualified to carry out the duties in accordance with rules to be established by the State Board of Education.

**3. Duties.** The duties of an attendance coordinator include, but are not limited to, the following:

- A. ~~When notified by a principal that a student's attendance is irregular, interviewing the student and the parent or parents or guardian or guardians~~ Interviewing a student whose attendance is irregular and meeting with the student and the parents to determine the cause of the irregular attendance and file filing a written report with the principal;
- B. Filing an annual report with the superintendent summarizing school year activities, findings and recommendations regarding truants;
- C. Serving as a member of the dropout prevention committee in accordance with section 5103; and

D. Serving as the liaison between the school and the local law enforcement agency in matters pertaining to student absenteeism under ~~sections~~ section 5001-A and 5051-A.

**4. Department assistance.** The department shall provide technical assistance to school attendance coordinators for carrying out these duties, through the Office of Truancy, Dropout Prevention and Alternative Education.

**Sec. 15. 20-A MRSA §5053-A, sub-§1**, as amended by PL 2007, c. 304, §8, is further amended to read:

**1. Civil violation.** If a parent has control of a student who is ~~habitually~~ habitually truant under section 5051-A, subsection 1 and that parent is primarily responsible for that truancy, that parent commits a civil violation for which a fine of not more than \$250 may be adjudged, all or part of which may be suspended upon the parent's compliance with a court order under subsection 2.

**Sec. 16. 20-A MRSA §5053-A, sub-§2**, as enacted by PL 2003, c. 533, §5, is amended to read:

**2. Dispositions.** The court may also order a parent adjudicated as violating subsection 1 to take specific action to ensure the child's attendance at school; comply with the intervention plan developed in accordance with section 5051-A, subsection 2, paragraph ~~A-2~~ A-2; participate in a parent-training class; attend school with the child; perform community service hours at the school; or participate in counseling or other services as appropriate.

**Sec. 17. 20-A MRSA §5053-A, sub-§4**, as amended by PL 2007, c. 304, §9, is further amended to read:

**4. Prima facie proof.** Evidence that shows that the parent received the notice under section 5051-A, subsection 2 and that the child has accumulated ~~7~~ 10 cumulative full days of absences or 5 consecutive school days of absences that are not justified under the established attendance policies of the school administrative unit is prima facie proof that the parent is primarily responsible for the child's ~~habitual~~ habitually truancy or the parent failed to take corrective measures for the child's ~~habitual~~ habitually truancy.

**Sec. 18. 20-A MRSA §5054**, as enacted by PL 1989, c. 415, §26, is amended to read:

**§5054. Employment of truants prohibited**

Any firm or corporation, or agent or manager of any firm or corporation, who hires or otherwise engages any student who is ~~habitually~~ habitually truant as defined in this subchapter without a release from the student's

supervising superintendent of schools ~~shall be~~ is subject to the penalty provided in Title 26, section 781.

**Sec. 19. 20-A MRSA §5103, sub-§5, ¶A,** as amended by PL 2007, c. 667, §7, is further amended to read:

- A. The dropout prevention committee shall:
  - (1) Study the problem of dropouts and ~~habitual~~ truancy and the need for alternative education programs, kindergarten to grade 12;
  - (2) Make recommendations for addressing the problems; and
  - (3) Submit a plan of action to the school board, in accordance with section 4502, subsection 5, paragraph L-1.

**Sec. 20. 20-A MRSA §5151, sub-§2, ¶J,** as enacted by PL 1985, c. 774, §5, is amended to read:

J. Collect data on the scope of the dropout and truancy problem in the State, including data on the number of students who are expelled from school and the number who are readmitted to school after expulsion;

**Sec. 21. 26 MRSA §775, sub-§2, ¶A,** as enacted by PL 1991, c. 544, §5, is amended to read:

A. If the school is in session or the minor is attending summer school, the minor must be enrolled in school, not ~~habitually~~ truant, not under suspension and passing a majority of courses during the current grading period. Upon request of the minor, the superintendent may waive the requirements for one grading period if, in the opinion of the superintendent, there are extenuating circumstances or if imposing the requirements would create an undue hardship for the minor;

**Sec. 22. 30-A MRSA §451, sub-§9, ¶A,** as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

A. Is ~~habitually~~ truant;

**Sec. 23. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 20-A, chapter 211, subchapter 2, in the subchapter headnote, the words "habitual truants" are amended to read "truants" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

**CHAPTER 615**

**S.P. 544 - L.D. 1645**

**An Act To Require the Maine Community College System, the University of Maine System and the Maine Maritime Academy To Report the Number of Students Enrolled in Remedial Courses**

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

**Sec. 1. 20-A MRSA §10012** is enacted to read:

**§10012. High school graduates data; remedial courses**

**1. Remedial courses.** Using information that is already collected by the Maine Community College System, the University of Maine System and the Maine Maritime Academy as part of the admissions and academic placement process, the President of the Maine Community College System, the Chancellor of the University of Maine System and the President of the Maine Maritime Academy shall annually compile the data so as to demonstrate:

A. The total number of traditional students who are enrolled in remedial courses in English language arts and mathematics, which must be disaggregated by campus and by subject area;

B. The name of each secondary school in the State from which a traditional student enrolled in a remedial course received a high school diploma and the number of those students from each of those schools; and

C. The retention and graduation rates for traditional students who were enrolled in remedial courses in English language arts and mathematics, which must be disaggregated by campus.

For the purposes of this subsection and subsection 2, "traditional student" means a student who has attended any accredited public school or private school in the State and received a high school diploma from a secondary school in the State or who has participated in a home instruction program pursuant to section 5001-A, subsection 3, paragraph A and who in the following academic year matriculates in the Maine Community College System, in the University of Maine System or at the Maine Maritime Academy.

**2. Personally identifiable information.** In reporting pursuant to subsection 3 the information compiled under subsection 1, the Maine Community College System, the University of Maine System and the Maine Maritime Academy shall manage education records in compliance with the federal Family Educational Rights and Privacy Act of 1974, 20 United States Code, Section 1232g. Those public institutions of higher education may not make public any information that could identify an individual student and shall ensure that the purpose of reporting disaggregated data for students enrolled in remedial courses is to conduct research for the purpose of evaluating and improving education programs. To ensure that personally identifiable information that would make a student's identity easily traceable is not disclosed, the public institutions of higher education may not report disaggregated information compiled under subsection 1 if the total number of traditional students who received high school diplomas from the same secondary school and enrolled in the same remedial course at the same campus is 5 or fewer.

**3. Report.** Beginning with the 2012-2013 academic year, the President of the Maine Community College System, the Chancellor of the University of Maine System and the President of the Maine Maritime Academy shall each report the information compiled under subsection 1, including recommendations for strategies that may result in fewer students enrolling in remedial courses at postsecondary educational institutions and strategies for improving the retention and graduation rates for students who were enrolled in remedial courses. The reports must be submitted by January 1st of each year to the Commissioner of Education and to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs. The Maine Community College System, the University of Maine System and the Maine Maritime Academy shall publish the annual reports on their publicly accessible websites.

**4. Contingent repeal.** This section is repealed July 1, 2016 unless the Commissioner of Education certifies to the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes before that date that the United States Congress has enacted legislation requiring public institutions of higher education to compile and report substantially the same data.

See title page for effective date.

**CHAPTER 616  
H.P. 1364 - L.D. 1843**

**An Act To Implement the  
Recommendations of the Office  
of Program Evaluation and  
Government Accountability  
and the Government Oversight  
Committee Regarding  
Quasi-independent State  
Entities**

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

**PART A**

**Sec. A-1. 5 MRSA c. 379, sub-c. 3** is enacted to read:

**SUBCHAPTER 3**

**QUASI-INDEPENDENT STATE ENTITIES**

**§12021. Definitions**

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

**1. Competitive procurement.** "Competitive procurement" means the transmission of a written request for proposal, written request for qualifications or other invitation to compete on price or qualifications to at least 3 responsible suppliers that is to be replied to at a stated time.

**2. Contributions.** "Contributions" means payments for membership dues and fees, gifts, donations and sponsorships, including those that result in public advertisement of the entity.

**3. Governing body.** "Governing body" means a person or group of persons with the responsibility or authority to manage an entity.

**4. Managing director.** "Managing director" means the person with overall day-to-day responsibility for directing the operations of a quasi-independent state entity.

**5. Quasi-independent state entity.** "Quasi-independent state entity" means an organization that has been established by the Legislature as an independent board, commission or agency to fulfill governmental purposes and that receives revenues that are derived, in whole or part, from federal or state taxes or fees.

**6. Reporting entity.** "Reporting entity" or "entity" means:

A. The Child Development Services System under Title 20-A, section 7209;

B. The ConnectME Authority under Title 35-A, section 9203;

C. The Efficiency Maine Trust under Title 35-A, section 10103;

D. The Finance Authority of Maine under Title 10, section 964;

E. The Loring Development Authority of Maine under Title 5, section 13080;

F. The Maine Community College System under Title 20-A, chapter 431;

G. The Maine Educational Loan Authority under Title 20-A, section 11414;

H. The Maine Governmental Facilities Authority under Title 4, section 1602;

I. The Maine Health and Higher Educational Facilities Authority under Title 22, section 2054;

J. The Maine Human Rights Commission under Title 5, section 4561;

K. The Maine Maritime Academy under Private and Special Law 1941, chapter 37;

L. The Maine Municipal and Rural Electrification Cooperative Agency under Title 35-A, section 4131;

M. The Maine Municipal Bond Bank under Title 30-A, section 5951;

N. The Maine Port Authority under Title 23, section 4420;

O. The Maine Public Employees Retirement System under Title 5, section 17101;

P. The Maine State Housing Authority under Title 30-A, section 4722;

Q. The Maine Technology Institute under Title 5, section 15302;

R. The Maine Turnpike Authority under Title 23, section 1963;

S. The Midcoast Regional Redevelopment Authority under Title 5, section 13083-G;

T. The Northern New England Passenger Rail Authority under Title 23, chapter 621, subchapter 2;

U. The Small Enterprise Growth Board under Title 10, section 384;

V. The University of Maine System under Private and Special Law 1865, chapter 532;

W. The Washington County Development Authority under Title 5, section 13083-A; and

X. The Workers' Compensation Board under Title 39-A, section 151.

#### **§12022. Financial policies and procedures**

A governing body of an entity:

**1. Consistency with authorizing law.** Shall ensure that all activities and expenditures of the entity are limited to those necessary to accomplish the entity's mission and to carry out the entity's duties consistent with the entity's authorizing law;

**2. Compliance with financial policies and procedures.** Shall ensure that the governing body, management and staff of the entity comply with financial policies and procedures established by the governing body;

**3. Selection of vendors.** Shall adopt by December 31, 2012 and implement by July 1, 2013 written policies and procedures governing the selection of vendors designed to ensure that the entity secures the best value in its procurements. To the extent possible, consistent with the entity's authorizing law, the policies and procedures must:

A. Establish competitive procurement as the standard procurement method;

B. Specify the conditions under which competitive procurement may be waived; and

C. For procurements exceeding \$10,000 that were not competitively procured, require that written justification for and evidence of approvals are maintained on file for 5 years;

**4. Contributions.** Shall adopt by December 31, 2012 and implement by July 1, 2013 written policies and procedures governing the use of the entity's resources for contributions. To the extent possible, consistent with the entity's authorizing law, the policies and procedures must:

A. Establish criteria to ensure that contributions are directly related to the entity's mission and activities;

B. Require that for identification and reporting purposes contributions are budgeted and accounted for separately from other expenditures in the entity's records;

C. Establish requirements for maintaining documentation to support each contribution; and

D. Require that the governing body must approve the annual budget for contributions and be provided periodic reports on contributions made by the entity;

**5. Travel, meals and entertainment.** Shall adopt by December 31, 2012 and implement by July 1, 2013 written policies and procedures governing the use of the entity's resources to pay costs of travel,

meals and entertainment. To the extent possible, consistent with the entity's authorizing law, the policies and procedures must:

A. Limit travel, meal and entertainment costs to those reasonable and necessary for accomplishing the entity's mission and activities;

B. Describe the persons for whom the entity will pay travel, meal and entertainment costs and specify the conditions under which those costs will be paid and whether directly or through reimbursement;

C. Establish the requirements for supporting documentation and approval of travel, meal and entertainment costs paid directly or through reimbursement;

D. Require for identification and reporting purposes that travel, meal and entertainment costs are budgeted and accounted for separately from other expenditures in the entity's records; and

E. Require that the governing body must approve the annual budget for travel, meal and entertainment costs and be provided periodic reports on actual costs paid directly or reimbursed; and

6. Lobbyists. May not retain any person, other than entity staff, that is required to register as a lobbyist as defined in Title 3, section 312-A, subsection 10.

### **§12023. Reports to the Legislature**

**1. Adoption and implementation.** By February 1, 2013, a governing body shall submit a report to the Legislature on the adoption and implementation status of written policies and procedures required by section 12022 and describing the measures the governing body intends to use to monitor compliance with those policies and procedures. The report must be submitted to the Executive Director of the Legislative Council in a manner established by the executive director, who shall refer it to the appropriate joint standing committee or committees of the Legislature for review.

**2. Ongoing reports.** By February 1, 2014, and annually thereafter, a governing body shall submit a report to the Legislature containing the following information:

A. A list of all procurements exceeding \$10,000 in the preceding year for which competitive procurement was waived under the policies adopted pursuant to section 12022, subsection 3, including procurements exceeding \$10,000 that were made under contracts previously entered into for which competitive procurement was not required. The list must include the names of the vendors and costs associated with those procurements;

B. A list of all persons to which the entity made contributions greater than \$1,000 in the preceding year and the total amount contributed to each; and

C. A description of changes made in the preceding year to the written policies and procedures required by section 12022 or to the procedures used by the governing body to monitor compliance with those policies and procedures.

For the purpose of this subsection, "the preceding year" means either the most recent January 1st to December 31st budget cycle or the most recent July 1st to June 30th budget cycle, depending on the fiscal year that the entity uses.

Reports to the Legislature required by this subsection must be submitted to the Clerk of the House, the Secretary of the Senate and the Executive Director of the Legislative Council in a manner determined by the Executive Director of the Legislative Council. The Executive Director of the Legislative Council shall refer each report to the appropriate joint standing committee or committees of the Legislature.

### **§12024. Proposed quasi-independent state entities**

A joint standing committee of the Legislature that considers proposed legislation establishing a quasi-independent state entity after January 1, 2013 shall:

**1. Additions to reporting entities.** Evaluate whether the proposed quasi-independent state entity should be added to the list of reporting entities in section 12021, subsection 6. The joint standing committee shall consider:

A. Whether the governmental purpose for which the proposed quasi-independent state entity is being established is funded with revenues that are derived, in whole or part, from federal or state taxes or fees;

B. Whether the powers and duties of the proposed quasi-independent state entity are more than advisory as described in section 12004-I;

C. Whether the proposed quasi-independent state entity's organizational and accountability structure allows the quasi-independent state entity to make significant policy and financial decisions independent of the Legislature and executive branch;

D. Whether the proposed quasi-independent state entity is considered a component unit of State Government for financial reporting purposes under the standards and pronouncements issued by a governmental accounting standards board or for any purposes under Part 4; and

E. Whether the proposed quasi-independent state entity will be subject to review under the State Government Evaluation Act.

If the committee determines that the proposed quasi-independent state entity should be added to the list of reporting entities under section 12021, subsection 6, the committee shall include that determination in any report on the legislation; and

**2. Legislative standards.** Ensure that proposed legislation that establishes a new quasi-independent state entity:

A. Provides, if applicable, for staggered terms of office for members of the governing body, with terms not to exceed 5 years;

B. Requires that the governing body must be responsible for:

(1) Appointment, performance review and termination of the managing director;

(2) Establishing and ensuring compliance with organizational policies and procedures, including those required by section 12022; and

(3) Ensuring adherence to all requirements of this chapter;

C. Specifies qualifications required or desired of the managing director;

D. Provides conditions under which members of the governing body and the managing director may be removed from office and establishes the process for removal;

E. Identifies the joint standing committee of the Legislature with oversight over the entity and any matters that must be reviewed by that committee; and

F. Contains audit and reporting requirements.

**Sec. A-2. Application.** Notwithstanding the Maine Revised Statutes, Title 5, section 12023, subsection 2, the report due pursuant to that subsection on February 1, 2014 must cover the 6-month period from July 1, 2013 to December 31, 2013.

**PART B**

**Sec. B-1. Legislation.** A joint standing committee of the Legislature having jurisdiction over the subject matter of a quasi-independent state entity, as defined in the Maine Revised Statutes, Title 5, section 12021, subsection 5, may submit legislation to the First Regular Session of the 126th Legislature to add that entity to the list of reporting entities under Title 5, section 12021, subsection 6 or to amend the laws governing the quasi-independent state entity to be consistent with Title 5, chapter 379, subchapter 3.

See title page for effective date.

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**CHAPTER 617  
H.P. 1373 - L.D. 1855**

**An Act Regarding the Fund for a Healthy Maine's Prevention, Education and Treatment Activities Concerning Unhealthy Weight and Obesity**

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

**Sec. 1. 22 MRSA §1511, sub-§6,** as amended by PL 2007, c. 539, Pt. IIII, §3, is further amended to read:

**6. Health promotion purposes.** Allocations are limited to the following health-related prevention and health promotion purposes:

A. Smoking prevention, cessation and control activities, including, but not limited to, reducing smoking among the children of the State;

A-1. Prevention, education and treatment activities concerning unhealthy weight and obesity;

B. Prenatal and young children's care including home visits and support for parents of children from birth to 6 years of age;

C. Child care for children up to 15 years of age, including after-school care;

D. Health care for children and adults, maximizing to the extent possible federal matching funds;

E. Prescription drugs for adults who are elderly or disabled, maximizing to the extent possible federal matching funds;

F. Dental and oral health care to low-income persons who lack adequate dental coverage;

G. Substance abuse prevention and treatment; and

H. Comprehensive school health and nutrition programs, including school-based health centers.

**Sec. 2. Review and report.** The Commissioner of Administrative and Financial Services in consultation with the Commissioner of Health and Human Services shall create a separate budget entry for prevention, education and treatment activities concerning unhealthy weight and obesity to be used in the state budget beginning in fiscal year 2014-15. The entry must include the funds being spent on prevention, education and treatment activities concerning unhealthy weight and obesity. By October 1, 2012,

the Commissioner of Administrative and Financial Services shall report on the progress under this section to the Legislature.

See title page for effective date.

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## CHAPTER 618

### H.P. 844 - L.D. 1138

#### An Act To Amend the Maine Tree Growth Tax Law and the Open Space Tax Law

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 36 MRSA §573, sub-§6-A** is enacted to read:

**6-A. Residential structure.** "Residential structure" means a building used for human habitation as a seasonal or year-round residence. It does not include structures that are ancillary to the residential structure, such as a garage or storage shed.

**Sec. 2. 36 MRSA §574-B**, as amended by PL 2009, c. 434, §15, is further amended to read:

#### **§574-B. Applicability**

An owner of a parcel containing forest land may apply at the landowner's election by filing with the assessor the schedule provided for in section 579, except that this subchapter does not apply to any parcel containing less than 10 acres of forest land. For purposes of this subchapter, a parcel is deemed to include a unit of real estate, notwithstanding that it is divided by a road, way, railroad or pipeline, or by a municipal or county line. The election to apply requires the written consent of all owners of an interest in a parcel except for the State. For applications submitted on or after August 1, 2012, the size of the exclusion from classification under this subchapter for each structure located on the parcel and for each residential structure located on the parcel in shoreland areas is determined pursuant to section 574-C.

A parcel of land used primarily for growth of trees to be harvested for commercial use ~~shall be~~ is taxed according to this subchapter, ~~provided that~~ as long as the landowner complies with the following requirements:

**1. Forest management and harvest plan.** A forest management and harvest plan must be prepared for each parcel and updated every 10 years. The landowner shall file a sworn statement with the municipal assessor for a parcel in a municipality or with the State Tax Assessor for a parcel in the unorganized territory that a forest management and harvest plan has been prepared for the parcel;

**2. Evidence of compliance with plan.** The landowner must comply with the plan developed under subsection 1, and must submit, every 10 years to the municipal assessor in a municipality or the State Tax Assessor for parcels in the unorganized territory, a statement from a licensed professional forester that the landowner is managing the parcel according to schedules in the plan required under subsection 1; ~~and~~

**3. Transfer of ownership.** When land taxed under this subchapter is transferred to a new owner, within one year of the date of transfer, the new landowner must file with the municipal assessor or the State Tax Assessor for land in the unorganized territory one of the following:

A. A sworn statement indicating that a new forest management and harvest plan has been prepared; or

B. A statement from a licensed professional forester that the land is being managed in accordance with the plan prepared for the previous landowner.

The new landowner may not harvest or authorize the harvest of forest products for commercial use until a statement described in paragraph A or B is filed with the assessor. A person owning timber rights on land taxed under this subchapter may not harvest or authorize the harvest of forest products for commercial use until a statement described in paragraph A or B is filed with the assessor.

Parcels of land subject to section 573, subsection 3, paragraph B or C are exempt from the requirements under this ~~section~~ subsection.

For the purposes of this subsection, "transferred to a new owner" means the transfer of the controlling interest in the fee ownership of the land or the controlling interest in the timber rights on the land; ~~and~~

**4. Attestation.** Beginning August 1, 2012, when a landowner is required to provide to the assessor evidence that a forest management and harvest plan has been prepared for the parcel or updated pursuant to subsection 1, or when a landowner is required to provide evidence of compliance pursuant to subsection 2, the landowner must provide an attestation that the landowner's primary use for the forest land classified pursuant to this subchapter is to grow trees to be harvested for commercial use or that the forest land is land described in section 573, subsection 3, paragraphs

A, B, C or E. The existence of multiple uses on an enrolled parcel does not render it inapplicable for tax treatment under this subchapter, as long as the enrolled parcel remains primarily used for the growth of trees to be harvested for commercial use.

**Sec. 3. 36 MRSA §574-C** is enacted to read:

**§574-C. Reduction of parcels with structures; shoreland areas**

If a parcel of land for which an owner seeks classification under this subchapter on or after August 1, 2012 contains a structure for which a minimum lot size is required under state law or by municipal ordinance, the owner in the schedule under section 579 shall apply the following reduction to the land to be valued under this subchapter.

**1. Structures.** For each structure located on the parcel for which a minimum lot size is required under state law or by municipal ordinance, the owner in the schedule under section 579 shall exclude from the forest land subject to valuation under this subchapter the area of land in the parcel containing the structure or structures, which may not be less than 1/2 acre.

**2. Shoreland areas.** For each residential structure located within a shoreland area, as identified in Title 38, section 435, the owner in the schedule under section 579 shall exclude from the forest land subject to valuation under this subchapter the area of land in the parcel containing the structure or structures, which may not be less than 1/2 acre, and the excluded parcel must include 100 feet of shoreland frontage or the minimum shoreland frontage required by the applicable minimum requirements of the zoning ordinance for the area in which the land is located, whichever is larger. If the parcel has less than 100 feet of shoreland frontage, the entire shoreland frontage must be excluded. This subsection does not apply to a structure that is used principally for commercial activities related to forest products that have commercial value as long as any residential use of the structure is nonrecreational, temporary in duration and purely incidental to the commercial use.

**Sec. 4. 36 MRSA §581, sub-§1-A**, as enacted by PL 2009, c. 577, §2, is amended to read:

**1-A. Notice of compliance.** No earlier than 185 days prior to a deadline established by section 574-B, if the landowner has not yet complied with the requirements of that section, the assessor must provide the landowner with written notice by certified mail informing the landowner that failure to comply will result in the withdrawal of the property from taxation under this subchapter. The notice, at a minimum, must inform the landowner of the statutory requirements that need to be met to comply with section 574-B and the date of the deadline for compliance and that the consequences of withdrawal could include the assessment of substantial financial penalties against the

owner or by which the parcel may be transferred to open space classification pursuant to subchapter 10. The notice must also state that if the owner fails to meet the deadline for complying with section 574-B or transferring the parcel to open space classification, a supplemental assessment of \$500 will be assessed and that continued noncompliance will lead to a subsequent supplemental assessment of \$500. If the notice is issued less than 120 days before the deadline, the owner has 120 days from the date of the notice to provide the assessor with the documentation to achieve compliance with section 574-B or transfer the parcel to open space classification, and the notice must specify the date by which the owner must comply.

At the expiration of the deadline for compliance with section 574-B or 120 days from the date of the notice, whichever is later, if the landowner has failed to meet the requirements of section 574-B, the assessor must withdraw the parcel from taxation under this subchapter and impose a withdrawal penalty under subsection 3.

If the landowner fails to provide the assessor with the documentation to achieve compliance with section 574-B or transfer the parcel to open space classification pursuant to subchapter 10 by the deadline specified in the notice, the assessor shall impose a \$500 penalty to be assessed and collected as a supplemental assessment in accordance with section 713-B. The assessor shall send notification of the supplemental assessment by certified mail and notify the landowner that, no later than 6 months from the date of the 2nd notice, the landowner must comply with the requirements of section 574-B or transfer the parcel to open space classification pursuant to subchapter 10 and that failure to comply will result in an additional supplemental assessment of \$500 and the landowner will have an additional 6-month period in which to comply with these requirements before the withdrawal of the parcel and the assessment of substantial financial penalties against the landowner.

At the expiration of 6 months, if the landowner has not complied with section 574-B or transferred the parcel to open space classification under subchapter 10, the assessor shall assess an additional \$500 supplemental assessment. The assessor shall send notification of the 2nd supplemental assessment by certified mail and notify the landowner that, no later than 6 months from the date of the notice, the landowner must comply with the requirements of section 574-B or transfer the parcel to open space classification pursuant to subchapter 10 or the land will be withdrawn from the tree growth tax program.

If the landowner has not complied within 6 months from the date of the 2nd supplemental assessment, the assessor shall remove the parcel from taxation under this subchapter and assess a penalty for the parcel's withdrawal pursuant to subsection 3.

This subsection does not limit the assessor from issuing other notices or compliance reminders to property owners at any time in addition to the notice required by this subsection.

**Sec. 5. 36 MRSA §1102, sub-§§4-A and 4-B** are enacted to read:

**4-A. Forest management and harvest plan.** "Forest management and harvest plan" means a written document that outlines activities to regenerate, improve and harvest a standing crop of timber. A plan must include the location of water bodies and wildlife habitat as identified by the Department of Inland Fisheries and Wildlife. A plan may include, but is not limited to, schedules and recommendations for timber stand improvement and harvesting plans and recommendations for regeneration activities. A plan must be prepared by a licensed professional forester or a landowner and be reviewed and certified by a licensed professional forester as consistent with sound silvicultural practices.

**4-B. Forested land.** "Forested land" means land that is used in the growth of trees but does not include ledge, marsh, open swamp, bog, water and similar areas that are unsuitable for growing trees.

**Sec. 6. 36 MRSA §1106-A, sub-§2, ¶E** is enacted to read:

E. Managed forest open space land is eligible for the reduction set in paragraphs A, B and D and an additional 10%.

**Sec. 7. 36 MRSA §1106-A, sub-§3,** as amended by PL 2003, c. 414, Pt. B, §50 and affected by c. 614, §9, is further amended to read:

**3. Definition of land eligible for additional percentage reduction.** The following categories of open space land are eligible for the additional percentage reduction set forth in subsection 2, paragraphs B, C and D and E.

A. Permanently protected open space is an area of open space land that is eligible for an additional cumulative percentage reduction in valuation because that area is subject to restrictions prohibiting building development under a perpetual conservation easement pursuant to Title 33, chapter 7, subchapter ~~VIII-A~~ 8-A or as an open space preserve owned and operated by a nonprofit entity in accordance with section 1109, subsection 3, paragraph H.

B. Forever wild open space is an area of open space land that is eligible for an additional cumulative percentage reduction in valuation because it is permanently protected and subject to restrictions or committed to uses by a nonprofit entity in accordance with section 1109, subsection 3, paragraph H that ensure that in the future the natural

resources on that protected property will remain substantially unaltered, except for:

- (1) Fishing or hunting;
- (2) Harvesting shellfish in the intertidal zone;
- (3) Prevention of the spread of fires or disease; or
- (4) Providing opportunities for low-impact outdoor recreation, nature observation and study.

C. Public access open space is an area of open space land, whether ordinary, permanently protected or forever wild, that is eligible for an additional cumulative percentage reduction in valuation because public access is by reasonable means and the applicant agrees to refrain from taking action to discourage or prohibit daytime, nonmotorized and nondestructive public use. The applicant may permit, but is not obligated to permit as a condition of qualification for public access status, hunting, snowmobiling, overnight use or other more intensive outdoor recreational uses. The applicant, without disqualifying land from status as public access open space, may impose temporary or localized public access restrictions to:

- (1) Protect active habitat of endangered species listed under Title 12, chapter 925, subchapter 3;
- (2) Prevent destruction or harm to fragile protected natural resources under Title 38, chapter 3, subchapter 1, article 5-A; or
- (3) Protect the recreational user from any hazardous area.

D. Managed forest open space land is an area of open space land whether ordinary, permanently protected pursuant to paragraph A or public access pursuant to paragraph C containing at least 10 acres of forested land that is eligible for an additional cumulative percentage reduction in valuation because the applicant has provided proof of a forest management and harvest plan. A forest management and harvest plan must be prepared for each parcel of managed forest open space land and updated every 10 years. The landowner must comply with the forest management and harvest plan and must submit every 10 years to the municipal assessor for parcels in a municipality or the State Tax Assessor for parcels in the unorganized territory a statement from a licensed professional forester that the landowner is managing the parcel according to the forest management and harvest plan. Failure to comply with the forest management and harvest plan results in the loss of the additional cumulative percentage reduction under this paragraph for 10 years. The assessor or the assessor's duly authorized representative may

enter and examine the forested land and may examine any information in the forest management and harvest plan submitted by the owner. A copy of the forest management and harvest plan must be made available to the assessor to review upon request. For the purposes of this paragraph, "to review" means to see or possess a copy of a forest management and harvest plan for a reasonable amount of time to verify that the forest management and harvest plan exists or to facilitate an evaluation as to whether the forest management and harvest plan is appropriate and is being followed. Upon completion of a review, the forest management and harvest plan must be returned to the owner or an agent of the owner. A forest management and harvest plan provided in accordance with this section is confidential and is not a public record as defined in Title 1, section 402, subsection 3.

**Sec. 8. 36 MRSA §1112, 3rd ¶**, as amended by PL 2011, c. 404, §2, is further amended to read:

A penalty may not be assessed at the time of a change of use from the farmland classification of land subject to taxation under this subchapter to the open space classification of land subject to taxation under this subchapter. A penalty may not be assessed upon the withdrawal of open space land from taxation under this subchapter if the owner applies for the land to be classified as and the land is accepted for classification as timberland under subchapter 2-A. There also is no penalty imposed when land classified as timberland is accepted for classification as open space land. A penalty may not be assessed upon withdrawal of open space land from taxation under this subchapter if the owner applies for the land to be classified as and the land is accepted for classification as farmland under this subchapter. A penalty may not be assessed upon withdrawal of land enrolled under the Maine Tree Growth Tax Law if the owner applies for the land to be classified as and the land is accepted for classification as farmland under this chapter. The recapture penalty for withdrawal from farmland classification within 10 years of a transfer from either open space tax classification or timberland tax classification is the same imposed on withdrawal from the prior tax classification, open space or tree growth. The recapture penalty for withdrawal from farmland classification more than 10 years after such a transfer will be the regular farmland recapture penalty provided for in this section. In the event a penalty is later assessed under subchapter 2-A, the period of time that the land was taxed as farmland or as open space land under this subchapter must be included for purposes of establishing the amount of the penalty. The recapture penalty for withdrawal from open space classification within 10 years of a transfer from tree growth classification occurring on or after August 1, 2012 is the same that would be imposed if the land were being withdrawn

from the tree growth classification. The recapture penalty for withdrawal from open space classification more than 10 years after such a transfer will be the open space recapture penalty provided for in this section.

**Sec. 9. Unorganized territory property withdrawn between September 20, 2007 and July 1, 2010.** Any property within the unorganized territory that was withdrawn from classification under the Maine Tree Growth Tax Law between September 20, 2007 and July 1, 2010 and returned to classification under the Maine Tree Growth Tax Law pursuant to Public Law 2009, chapter 577, section 3 is for all purposes deemed not to have been withdrawn from the Maine Tree Growth Tax Law classification during that period of time.

See title page for effective date.

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## CHAPTER 619

S.P. 459 - L.D. 1470

### An Act To Evaluate the Harvesting of Timber on Land Taxed under the Maine Tree Growth Tax Law

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

**Sec. 1. 36 MRSA §575-A**, as enacted by PL 2001, c. 603, §5, is repealed and the following enacted in its place:

**§575-A. Determining compliance with forest management and harvest plan**

**1. Assistance to assessor.** Upon request of a municipal assessor or the State Tax Assessor and in accordance with section 579, the Director of the Bureau of Forestry within the Department of Conservation may provide assistance in evaluating a forest management and harvest plan to determine whether the plan meets the definition of a forest management and harvest plan in section 573, subsection 3-A. Upon request of a municipal assessor or the State Tax Assessor, the Director of the Bureau of Forestry may provide assistance in determining whether a harvest or other silvicultural activity conducted on land enrolled under this subchapter complies with the forest management and harvest plan prepared for that parcel of land. When assistance is requested under this section and section 579, the Director of the Bureau of Forestry or the director's designee may enter and examine forest land for the purpose of determining compliance with the forest management and harvest plan.

**2. Random sampling and report.** The Director of the Bureau of Forestry within the Department of Conservation is authorized to conduct periodic random

sampling of land enrolled under this subchapter to identify any differences in compliance with forest management and harvest plans based on location or type of parcel and to assess overall compliance with the requirements of this subchapter. For the purposes of this subsection, the Director of the Bureau of Forestry or the director's designee may:

A. With appropriate notification to the landowner, enter and examine forest land for the purpose of determining compliance with the forest management and harvest plan pursuant to section 574-B;

B. Request and review a forest management and harvest plan required under section 574-B, which must be provided by a landowner or the landowner's agent upon request; and

C. Request and review an expired forest management and harvest plan, which must be provided by a landowner or the landowner's agent upon request, if the expired plan is in the possession of the landowner or the landowner's agent.

A forest management and harvest plan provided to the Director of the Bureau of Forestry or the director's designee under this subsection is confidential. Information collected pursuant to this subsection is confidential and is not a public record as defined in Title 1, section 402, subsection 3, except that the director shall publish at least one summary report, which may not reveal the activities of any person and that is available as a public record. This subsection is repealed on December 31, 2014.

**Sec. 2. Report.** The Director of the Bureau of Forestry within the Department of Conservation shall provide a report to the joint standing committee of the Legislature having jurisdiction over taxation matters no later than March 1, 2014. The report must include: findings from the periodic random sampling of land enrolled under the Maine Tree Growth Tax Law performed pursuant to the Maine Revised Statutes, Title 36, section 575-A, subsection 2, including any findings related to any differences in compliance issues based on the location of parcels, such as coastal and waterfront properties as compared to other parcels; a summary of data concerning violations and enforcement activities; an assessment of the effectiveness of the Maine Tree Growth Tax Law in promoting the harvesting of fiber for commercial purposes and its impact on the fiber industry; and recommendations to address any problems identified and to ensure that parcels enrolled under the Maine Tree Growth Tax Law meet the requirements of the law.

See title page for effective date.

## CHAPTER 620 S.P. 428 - L.D. 1383

### An Act To Promote a Qualified Logging Workforce and Ensure an Adequate Wood Supply for Maine Mills

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

**Sec. 1. 26 MRSA §872**, as amended by PL 2009, c. 637, §§3 to 9, is further amended to read:

#### **§872. Proof of equipment ownership for employers using foreign laborers**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Bond worker" means a person who has been described under 8 United States Code, Section 1101(a)(15)(H)(ii) and granted permission to work temporarily in the United States.

B. "Logging equipment" means equipment used directly in the cutting and transporting of logs to the roadside, the production of wood chips in the field, the construction of logging roads and the transporting of logs or other wood products off-site or on roadways.

**2. Proof of ownership required.** An employer in this State who applies for a bond worker in a logging occupation shall provide proof of the employer's ownership of any logging equipment used by that worker in the course of employment, including proof of ownership of at least one piece of logging equipment for every 2 bond workers employed by the employer in a logging occupation. The employer shall provide proof of ownership as required by this subsection on a form provided by the Commissioner of Labor. The proof required by this subsection must include, but not be limited to, a receipt for payment for the equipment purchased in a bona fide transaction and documentation of payment of any tax assessed on the equipment pursuant to Title 36, chapter 105 for the year in which the bond worker is employed by the employer. Proof of ownership must be carried in the equipment and, upon request by the department or its designee, the operator of equipment subject to this section shall provide proof of ownership. If proof of ownership is not provided within 30 calendar days of such a request, a fine of not less than \$5,000 and not more than \$25,000 may be assessed against that employer and collected by the Commissioner of Labor. Notwithstanding section 3, information regarding proof of ownership is not confidential and may be disclosed to the public. If the equipment is leased by the employer, the employer shall provide the name, address and telephone number of the leasing company

and its affiliates and subsidiaries; the names, addresses and telephone numbers of the leasing company's owner or owners, its agent and members of its board of directors; and a copy of the lease document. A lease is sufficient to meet the ownership requirement of this section only if it is a bona fide lease and:

A. The lease consists of an arm's length transaction between unrelated entities or is a transfer of equipment between affiliated companies;

B. The lease document contains a specific duration and lease amount;

C. The lessor is not an entity owned or controlled by a bond worker or a bond worker's spouse, parent, child, sibling, aunt, uncle or cousin or person related to a bond worker in the same manner by marriage, or by any combination of a bond worker and the bond worker's family members described in this paragraph; ~~and~~

D. The lessor is a ~~bona fide~~ leasing business as evidenced by a lease of logging equipment to at least 3 different, unrelated entities within each of the past 3 years; ~~and~~

E. The lessor provides proof of payment of personal property tax assessed on the leased equipment.

**2-A. Notification.** An employer filing for certification from the United States Department of Labor to hire a bond worker to operate logging equipment shall at the time of filing notify the Maine Department of Labor and provide, for the year in which the bond worker is employed, the number of bond workers requested; a list of each piece of logging equipment, including serial number, a bond worker will operate; receipts for payment for the logging equipment purchased in bona fide transactions; and documentation of payment of any tax assessed on the logging equipment pursuant to Title 36, chapter 105. An employer shall notify the Maine Department of Labor within 3 30 calendar days of the date on which a bond worker begins work in the State and shall specify the name of the bond worker and the anticipated locations where the bond worker will be conducting work and shall provide a copy of the United States Customs and Border Protections entry form for that worker. If the notification is not provided within 30 calendar days of the date on which a bond worker begins work, a fine of not less than \$5,000 and not more than \$25,000 must be assessed against that employer and collected by the Commissioner of Labor.

**2-B. Violation.** Upon an employer's conviction of a violation of subsection 2, an employer may not employ the Commissioner of Labor may prohibit the employer from employing bond workers in this State for 2 years.

**3. Equipment covered by federal prevailing wage exempt.** This section does not apply to equipment for which the United States Department of Labor, Division of Foreign Labor Certification has established a prevailing wage under the federal Service Contract Act of 1965 for persons using that equipment.

**4. Enforcement; rules.** The Commissioner of Labor shall may adopt rules to implement and enforce the provisions of this section, including rules regarding the receipt of documentation and the investigation and prosecution of employer proof of ownership of logging equipment. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

~~**5. Penalty; enforcement.** An employer who violates subsection 2, 2-A or 2-B or the rules adopted pursuant to this section commits a civil violation for which a fine of not less than \$10,000 and not more than \$25,000 per violation may be adjudged.~~

~~In the event of a violation of the provisions of this section, the Attorney General may institute injunction proceedings in the Superior Court to enjoin further violation of this section.~~

**6. Assistance.** The Department of Conservation and the Department of Administrative and Financial Services, Bureau of Revenue Services shall provide interagency support and field information to assist the Department of Labor in enforcing this section.

**Sec. 2. 26 MRSA §873**, as corrected by RR 2009, c. 2, §§73 and 74, is amended to read:

**§873. Recruitment of qualified workers for logging occupations**

~~**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings:~~

~~A. "Bond worker" has the same meaning as in section 872.~~

~~B. "Recruitment clearinghouse" or "clearinghouse" means a system operated by members of the forest products industry and described in subsection 3.~~

~~**2. Employer requirements; clearinghouse and reporting.** An employer filing for certification with the United States Department of Labor to hire a bond worker in a logging occupation shall:~~

~~A. File a copy of all federal forms and reports relating to H2 visas with the Maine Department of Labor at the same time as the employer files the form or report with the United States Department of Labor; and~~

~~B. Be a member and active participant of a recruitment clearinghouse that complies with sub-~~

section 3. The Maine Department of Labor may consider failure to participate in the clearinghouse as failure to participate in good faith recruitment of workers who are citizens of the United States and a failure to meet the requirement that the employer accept qualified workers referred through the department under subsection 5.

**3. Clearinghouse requirements.** The Maine Department of Labor shall assist members of the forest products industry in establishing the recruitment clearinghouse, which must be financed and operated by members of the forest products industry. The clearinghouse must provide a centralized, streamlined process for applicants in the forest products industry.

A. The clearinghouse must provide a staffed, toll-free telephone number to receive telephone inquiries for logging employment.

B. For each applicant who contacts the clearinghouse directly or who is referred to the clearinghouse by the Maine Department of Labor pursuant to subsection 4, the clearinghouse shall gather any information necessary to assess the job applicant's qualifications for the job classification applied for, including but not limited to conducting a reference check. Following the assessment, the clearinghouse shall:

(1) Notify the Maine Department of Labor and the applicant that the applicant lacks sufficient qualifications or satisfactory references for the position sought and state the reasons for that determination; or

(2) Refer the applicant to a logging employer seeking workers in that job classification. To the extent practicable, the clearinghouse shall refer the applicant to the applicant's preferred geographic area of employment. Referral may be made to any employer with relevant job openings, regardless of whether the employer is seeking bond workers, if the applicant prefers such a referral.

**4. Department role.** The Maine Department of Labor shall:

A. Refer to the recruitment clearinghouse all applicants who meet minimum qualifications for employment with a logging employer. The referral must include information required of applicants who use the department's career center services;

B. Keep a record of the name, date of referral, preferred working location and job classification of each applicant referred to the recruitment clearinghouse;

C. Engage actively with the recruitment clearinghouse and with employers to assist them in understanding how to comply with their obligations un-

der state and federal law regarding recruitment and hiring of logging workers; and

D. Regularly review clearinghouse referrals and assessments and employer response to referrals in order to make determinations of compliance by employers with the requirements of 20 Code of Federal Regulations, Part 655, Subpart B. Failure of the clearinghouse to appropriately refer and assess applicants may be considered failure of each of the member employers to adequately recruit workers who are citizens of the United States.

**4-A. Department role.** The Maine Department of Labor shall:

A. In addition to enforcing federal requirements imposed by 20 Code of Federal Regulations, Part 655, Subpart B, through the Bureau of Employment Services assist members of the forest products industry to ensure logging employment opportunities for Maine workers, match qualified applicants with logging employers and provide such other assistance to logging employers as may be appropriate;

B. With input from representatives of the forest industry, provide educational and training opportunities in order for workers who express an interest in the logging industry to obtain necessary skills; and

C. In conjunction with the Department of Education and representatives of the forest and logging industries, develop an entry-level logger training program with the goal of providing new qualified workers to the logging industry. The training program must include classroom and on-the-job training and must be provided through existing community colleges, technical schools or the University of Maine System whenever practicable.

**5. Job offer; skills test.** Upon referral of an applicant under subsection 3 by the Maine Department of Labor, Bureau of Employment Services, a logging employer shall may offer employment to that applicant based on the following factors.

A. An employment offer may be conditioned on a skills test, but only if the employer requires the skills test of all new applicants in that job classification.

B. If a skills test under paragraph A is required, it must be conducted at the area of intended employment, at a central location designated by the recruitment clearinghouse in conjunction with the logging employer, the employer's place of employment or at another location within reasonable distance from the applicant's residence.

C. A contractor that requires a skills test under paragraph A in the preemployment hiring process shall submit a copy of the testing policy and pro-

~~cedure to the Maine Department of Labor at the time the contractor files the position on the state Job Bank.~~

D. An applicant who is rejected from employment due to failing a skills test under paragraph A must be given a written statement of the reason for failure of the skills test. The employer shall provide a copy of the written statement to the recruitment clearinghouse and the Maine Department of Labor.

**6. Contracts with landowners.** A contract for harvesting wood between a logging employer and a landowner must contain a provision that allows the landowner to terminate the contract if the logging employer violates this section or the applicable federal regulations regarding employment of bond workers.

**7. Penalties.** The Maine Department of Labor shall make good faith efforts to resolve alleged violations of this section or of the recruitment process. If such efforts are not successful, the following penalties apply:

A. Violation of this section is considered a violation of section 872 and is subject to the penalties as set forth in section 872, subsection 5.

B. An employer is subject to discontinuation of services pursuant to 20 Code of Federal Regulations, Section 658.500 et seq. if the employer fails to comply with this section or the clearinghouse fails to appropriately refer or assess applicants in the job classification in which the employer is seeking bond workers.

**8. Landowner contracts with employers.** This subsection governs contracts between logging employers and landowners.

A. The Maine Department of Labor shall maintain an approved list of employers consisting of those employers filing for certification with the United States Department of Labor to hire a bond worker in a logging occupation that are members of and active participants in a recruitment clearinghouse that complies with subsections 2 and 3. The list must also contain any employer under investigation by the Maine Department of Labor for a violation of section 872, this section or federal regulations applicable to foreign labor. The department shall publish the list on the department's publicly accessible website and forward a copy of the list and subsequent updates to the recruitment clearinghouse. Each landowner or other person that wishes to be notified of a change in status of a contractor must file with the department a request to be notified and contact information for the notification.

B. The Maine Department of Labor, after notice and hearing, shall remove from the list of ap-

~~proved employers under paragraph A any employer filing for certification with the United States Department of Labor to hire a bond worker in a logging occupation that is found to have committed a material violation of section 872, this section or the applicable federal regulations.~~

C. A person may appeal the placement or removal of an employer on the approved list under paragraph A to the State Board of Arbitration and Conciliation. If the appeal relates to removal of the employer from the list, it must be made within 15 days of notice of removal to the employer. The board shall conduct an arbitration session pursuant to chapter 9, subchapter 2 A. Board proceedings under this section must be conducted in Augusta, unless the board determines that this location is impracticable in the specific circumstances. Notwithstanding section 931, the costs of arbitration under this section must be paid by a nonlapsing fund to be established by the department.

D. The Maine Department of Labor shall notify persons who have filed a request for notification of the removal of any employer from the list.

E. A landowner who enters into or maintains a contract with an employer not on the approved list under paragraph A is subject to a fine of not more than \$50,000.

**Sec. 3. 26 MRSA §874**, as enacted by PL 2009, c. 637, §11, is repealed.

**Sec. 4. Logging Industry Advisory Group.**

The Department of Labor shall convene and facilitate the Logging Industry Advisory Group to address recruitment, training and educational opportunities for the logging industry. The group shall address recruitment and the matching of qualified applicants, classroom training, on-the-job training, inventory of potential training partners, opportunities for potential training locations and funding sources. The group shall report its findings and recommendations to the department. The department shall report the group's findings to the Joint Standing Committee on Labor, Commerce, Research and Economic Development no later than October 1, 2012.

**1. Membership.** The Logging Industry Advisory Group consists of the following members:

A. A representative of the Bureau of Labor Standards, appointed by the Commissioner of Labor. This member shall serve as chair;

B. A representative of the Bureau of Employment Services, appointed by the Commissioner of Labor;

C. A representative of the Department of Conservation, appointed by the Commissioner of Conservation;

D. A representative of the Department of Education, appointed by the Commissioner of Education;

E. A representative of the Maine Community College System, appointed by the President of the Maine Community College System; and

F. A representative of the University of Maine System, appointed by the Chancellor of the University of Maine System.

In addition, a representative of the Maine Logger Education Alliance, a representative of a large logging employer and a representative of a small logging employer serve at the invitation of the Governor. The president of the Professional Logging Contractors of Maine is invited to appoint a representative to serve on the group.

**Sec. 5. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 26, chapter 7, subchapter 9, in the subchapter headnote, the words "aliens" are amended to read "foreign laborers; logging" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

**CHAPTER 621**

**H.P. 1254 - L.D. 1702**

**An Act To Correct  
Inconsistencies and  
Ambiguities in the Maine  
Guaranteed Access**

**Reinsurance Association Act**

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

**Sec. 1. 24-A MRSA §2736-C, sub-§3,** as amended by PL 2011, c. 90, Pt. B, §6 and affected by §10, is further amended to read:

**3. Guaranteed issuance and guaranteed renewal.** Carriers providing individual health plans must meet the following requirements on issuance and renewal.

A. Coverage must be guaranteed to all residents of this State other than those eligible without paying a premium for Medicare Part A ~~and may be reinsured through the Maine Guaranteed Access Reinsurance Association established pursuant to chapter 54-A. On or after July 1, 2012, coverage~~ Coverage must be guaranteed to all legally domiciled federally eligible individuals, as defined in section 2848, regardless of the length of time they have been legally domiciled in this State. Except for federally eligible individuals, coverage need

not be issued to an individual whose coverage was terminated for nonpayment of premiums during the previous 91 days or for fraud or intentional misrepresentation of material fact during the previous 12 months. When a managed care plan, as defined by section 4301-A, provides coverage a carrier may:

(1) Deny coverage to individuals who neither live nor reside within the approved service area of the plan for at least 6 months of each year; and

(2) Deny coverage to individuals if the carrier has demonstrated to the superintendent's satisfaction that:

(a) The carrier does not have the capacity to deliver services adequately to additional enrollees within all or a designated part of its service area because of its obligations to existing enrollees; and

(b) The carrier is applying this provision uniformly to individuals and groups without regard to any health-related factor.

A carrier that denies coverage in accordance with this ~~paragraph~~ subparagraph may not enroll individuals residing within the area subject to denial of coverage or groups or subgroups within that area for a period of 180 days after the date of the first denial of coverage.

B. Renewal is guaranteed, pursuant to section 2850-B.

C. A carrier is exempt from the guaranteed issuance requirements of paragraph A provided that the following requirements are met.

(1) The carrier does not issue or deliver any new individual health plans on or after the effective date of this section;

(2) If any individual health plans that were not issued on a guaranteed renewable basis are renewed on or after December 1, 1993, all such policies must be renewed by the carrier and renewal must be guaranteed after the first such renewal date; and

(3) The carrier complies with the rating practices requirements of subsection 2.

D. Notwithstanding paragraph A, carriers offering supplemental coverage for the Civilian Health and Medical Program for the Uniformed Services, CHAMPUS, are not required to issue this coverage if the applicant for insurance does not have CHAMPUS coverage.

~~E. As part of the application process for individual health coverage, a carrier may evaluate the health status of shall require an individual for purposes of designating that individual for reinsurance through the Maine Guaranteed Access Reinsurance Association established in chapter 54-A. For individual health plans issued on or after July 1, 2012, the carrier shall use to complete the health statement developed by the Board of Directors of the Maine Guaranteed Access Reinsurance Association pursuant to section 3955, subsection 1, paragraph E to make a designation and may not use any other method to determine the health status of an individual. For purposes of this subsection, "health statement" means any information intended to inform the carrier or an insurance producer acting on behalf of a carrier of the health status of an enrollee or prospective enrollee in an individual health plan. A carrier may not deny coverage or refuse to renew or cancel an individual health plan on the basis of an individual's complete or incomplete health statement, claims history or risk scores or on the basis of any omission of material information from a health statement or misrepresentation of an individual's health status. The rejection of an application for individual health coverage by a carrier because an individual has not submitted a completed health statement is not a denial of coverage for the purposes of this paragraph.~~

**Sec. 2. 24-A MRSA §3955, sub-§1, ¶E**, as enacted by PL 2011, c. 90, Pt. B, §8, is amended to read:

~~E. Develop a health statement to be used by a member insurer to designate a resident in evaluating a person for designation for reinsurance pursuant to section 3959. Protected health information included in a health statement submitted to the association that is covered by the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, 110 Stat. 1936 or covered by chapter 24 remains confidential and is not open to public inspection; and~~

**Sec. 3. 24-A MRSA §3957, sub-§5, ¶B**, as enacted by PL 2011, c. 90, Pt. B, §8, is repealed.

**Sec. 4. 24-A MRSA §3958, sub-§1, ¶A**, as enacted by PL 2011, c. 90, Pt. B, §8, is amended to read:

~~A. The Beginning July 1, 2012, the association may not shall reimburse a member insurer for claims incurred with respect to claims of a person designated for reinsurance by the member insurer pursuant to section 3959 until or 3961 after the insurer has incurred an initial level of claims for that person of \$7,500 for covered benefits in a calendar year. In addition, the insurer is responsible for 10% of the next \$25,000 of claims paid during a~~

~~calendar year. The association shall reimburse insurers for claims paid amount of reimbursement is 90% of the amount incurred between \$7,500 and \$32,500 and 100% of the amount incurred in excess of \$32,500 for claims incurred in that calendar year with respect to that person. For calendar year 2012, only claims incurred on or after July 1st are considered in determining the member insurer's reimbursement.~~ The association may annually adjust the initial level of claims and the maximum limit to be retained by the insurer to reflect increases in costs and utilization within the standard market for individual health plans within the State. The adjustments may not be less than the annual change in the Consumer Price Index for medical care services unless the superintendent approves a lower adjustment factor as requested by the association.

**Sec. 5. 24-A MRSA §3958, sub-§2**, as enacted by PL 2011, c. 90, Pt. B, §8, is amended to read:

**2. Premium rates.** The association, as part of the plan of operation under section 3953, subsection 3, shall establish a methodology for determining premium rates to be charged member insurers to reinsure persons eligible for coverage under this chapter. The methodology must include a system for classification of persons eligible for coverage that reflects the types of case characteristics used by insurers for individual health plans pursuant to section 2736-C, together with any additional rating factors the association determines to be appropriate. The methodology must provide for the development of base reinsurance premium rates, subject to approval of the superintendent, set at levels that reasonably approximate gross premiums charged for individual health plans and that are adjusted to reflect retention levels required under this Title, together with other funds available to the association, will be sufficient to meet the anticipated costs of the association. The association shall periodically review the methodology established under this subsection and may make changes to the methodology as needed with the approval of the superintendent. The association may consider adjustments to the premium rates charged for reinsurance to reflect the use of effective cost containment and managed care arrangements by an insurer.

**Sec. 6. 24-A MRSA §3959**, as enacted by PL 2011, c. 90, Pt. B, §8, is amended to read:

**§3959. Designation for reinsurance**

**1. Designation.** The association shall provide reinsurance to a member insurer for persons a person designated for reinsurance by a member insurer using the health statement developed by the board pursuant to section 3955, subsection 1, paragraph F, if the designation was made:

A. By using the health statement developed by the board pursuant to section 3955, subsection 1, paragraph E or by using the person's claims history or risk scores or any other reasonable means;

B. As a mandatory designation pursuant to subsection 2 on the basis of the existence or history of any medical or health condition on the list developed by the board pursuant to subsection 2; or

C. On the basis of an omission of material information from the health statement developed by the board pursuant to section 3955, subsection 1, paragraph E or misrepresentation of the person's health status on the health statement.

**2. Mandatory designation.** The board shall develop a list of medical or health conditions for which a person is ~~automatically~~ must be designated for reinsurance by a member insurer. ~~A person who demonstrates~~ If a person's health statement, claims history or risk scores demonstrate the existence or history of any medical or health conditions on the list developed by the board ~~may not be required to complete the health statement specified in subsection 1 at the time the plan is issued or when the person is added to the plan, the member insurer shall designate the person for reinsurance.~~ The board may amend the list from time to time as appropriate.

**3. Enrolling additional persons.** A member insurer may designate a person for reinsurance pursuant to this section when the person is added to an individual health plan.

**4. Designation effective date and premium.** The designation of a person for reinsurance is effective as of the effective date of the primary coverage provided by the member insurer, except that the earliest effective date for any reinsurance is July 1, 2012. A member insurer's premium for reinsurance begins to accrue as of the effective date of the designation.

**Sec. 7. 24-A MRSA §3961, sub-§1,** as enacted by PL 2011, c. 90, Pt. B, §8, is amended to read:

**1. Reimbursement.** A member insurer may seek reimbursement from the association and the association shall reimburse the member insurer with respect to a person insured through a member insurer's closed book of business to the extent claims made by a covered person ~~on a calendar year basis after July 1, 2012 exceed the amounts otherwise~~ are eligible for reimbursement pursuant to section 3958, subsection 1, paragraph A, if:

A. The member insurer sold an individual health plan to the covered person between is insured under a policy sold on or after December 1, 1993 and in force as of July 1, 2012, the individual health plan that was sold has been continuously renewed by the covered person and the member insurer has closed its book of business for indi-

vidual health plans sold between December 1, 1993 and July 1, 2012; and

B. The member insurer is able to determine through the use of individual health statements, claims history, risk scores or any reasonable means that, between December 1, 1993 and July 1, 2012, while the person received coverage under an individual health plan issued by the member insurer, the covered person would have been designated currently qualifies for designation by the member insurer pursuant to section 3959, subsection 1; and

C. The member insurer seeks to designate the covered person for reimbursement from the association by October 1, 2012.

This subsection applies only to the individual health plans described and is not intended to limit the ability of a member insurer to designate a covered person for reinsurance pursuant to section 3959.

**Sec. 8. 24-A MRSA §3961, sub-§1-A** is enacted to read:

**1-A. Premium.** A member insurer seeking reimbursement under subsection 1 is liable to the association for reinsurance premium rates determined in accordance with section 3958, subsection 2.

See title page for effective date.

**CHAPTER 622**

**H.P. 1357 - L.D. 1836**

**An Act To Facilitate Rapid Response by Out-of-state Businesses to State Disasters**

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

**Whereas,** this legislation allows businesses from outside of Maine to come to Maine's assistance during times of disaster, natural or man-made, without those businesses being subject to certain regulations and taxes; and

**Whereas,** since it is impossible to predict when the next disaster may occur that requires Maine to seek assistance from outside its borders, this legislation needs to take effect 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. 10 MRSA Pt. 15** is enacted to read:

**PART 15**

**STATE OF EMERGENCY PROCEDURES**

**CHAPTER 1201**

**WAIVERS FOR OUT-OF-STATE BUSINESSES AND EMPLOYEES**

**§9901. Findings**

The Legislature finds that in times of emergency in this State, such as during or after a storm, flood, fire, earthquake, hurricane or other disaster, businesses from other states provide assistance by bringing in resources and personnel to assist the State with the often enormous and overwhelming task of cleaning up, restoring and repairing damaged buildings, equipment and property. This provision of assistance may require out-of-state businesses, including out-of-state affiliates of businesses based in the State, to bring in resources, property or personnel that previously have had no connection to the State to perform activities in the State, including, but not limited to, repairing, renovating, installing, building, rendering services and engaging in other business activities, some of which may require that personnel from the businesses be located in the State for extended periods of time.

The Legislature further finds that, while these businesses are operating in the State providing assistance on a temporary basis solely for the purpose of helping the State recover from the disaster or emergency, these businesses and their employees should not be burdened by requirements for certain business and employee taxes as a result of such temporary activities.

To ensure that these businesses focus on responding quickly to the needs of the State and its citizens during a declared state disaster or emergency, the Legislature finds that it is appropriate to consider that such activity for a reasonable period of time during and after the disaster or emergency undertaken to repair and restore property and infrastructure in the State does not establish presence or residency in the State or constitute doing business in the State for purposes of subjecting the businesses to certain taxes or licensing and regulatory requirements.

**§9902. Definitions**

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

**1. Declared state disaster or emergency.** "Declared state disaster or emergency" means a disaster or emergency event for which a Governor's state of emergency proclamation has been issued pursuant to

Title 37-B, section 742 or that the President of the United States has declared to be a major disaster or emergency.

**2. Disaster period.** "Disaster period" means the period of time that begins no later than 10 days following the Governor's proclamation of a state of emergency or the declaration by the President of the United States of a major disaster or emergency, whichever occurs first, and that extends for a period of 60 calendar days following the end of the declared disaster or emergency as proclaimed by the Governor pursuant to Title 37-B, section 743 or the President of the United States or pursuant to law, whichever occurs first.

**3. Infrastructure.** "Infrastructure" means:

A. Property and equipment, including related support facilities that provide service to more than one customer or person, owned or used by a public utility as defined in Title 35-A, section 102, subsection 13 or by a communications service provider as defined in Title 35-A, section 9202, subsection 4. "Infrastructure" includes, without limitation, real and personal property such as buildings, offices, power lines, poles, pipes, structures and equipment; and

B. Public roads and bridges.

**4. Out-of-state business.** "Out-of-state business" means a business entity:

A. That does not have a presence in the State;

B. That does not conduct business in the State; and

C. Whose assistance in performing work in this State, such as repairing, renovating, installing or building infrastructure, rendering services or engaging in other business activities, related to a declared state disaster or emergency is requested by the State, a county, city, town or other political subdivision of the State or a registered business.

"Out-of-state business" includes a business entity that is affiliated with a registered business solely through common ownership as long as that business entity does not have any registrations, tax filings or nexus in the State prior to the declared state disaster or emergency.

**5. Out-of-state employee.** "Out-of-state employee" means an individual who performs services for an out-of-state business in return for compensation and who, prior to the declared state disaster or emergency, was not a resident of this State.

**6. Registered business.** "Registered business" means a business entity that is registered or licensed to do business in the State prior to the declared state disaster or emergency.

**§9903. Status of out-of-state businesses and employees during disaster period**

**1. Out-of-state businesses.** Notwithstanding any other provision of law to the contrary, during a disaster period an out-of-state business that conducts operations within the State for the purpose of performing work or providing services related to a declared state disaster or emergency is deemed to have not established a level of presence that would require that business or its out-of-state employees to be subject to any of the following state or local employment, licensing or registration requirements:

A. Business licensing or registration requirements;

B. Unemployment insurance, taxes or fees or workers' compensation insurance taxes or fees; and

C. Occupational licensing fees.

**2. Status after disaster period.** After the termination of a disaster period, an out-of-state business or out-of-state employee that remains in the State is fully subject to the state or local employment, licensing or registration requirements listed in subsection 1 or that were otherwise suspended under this chapter during the disaster period.

**§9904. Notification**

**1. Notification by out-of-state businesses during disaster period.** An out-of-state business shall provide notification to the Secretary of State as soon as practicable after entry to the State during a disaster period that the out-of-state business is in the State for purposes of responding to the declared state disaster or emergency. The out-of-state business shall provide to the Secretary of State information related to the out-of-state business including but not limited to the following:

A. Name;

B. State of domicile;

C. Principal business address;

D. Federal employer identification number;

E. The date when the out-of-state business entered the State; and

F. Contact information while the out-of-state business is in this State.

**2. Registered businesses.** A registered business shall provide the notification required in subsection 1 for an affiliate of the registered business that enters the State as an out-of-state business. The notification under this subsection also must include contact information for the registered business in the State.

**3. Notification of intent to remain in the State.** An out-of-state business that remains in the State after

a disaster period shall notify the Secretary of State and shall meet all registration, licensing and filing requirements resulting from any business presence or activity in the State.

**§9905. Rulemaking**

The Secretary of State, in consultation with the Department of Professional and Financial Regulation, the Department of Economic and Community Development and the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency, may adopt routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, to implement the provisions of this chapter. Notification and registration procedures adopted by rule must allow a person to obtain and complete any required forms using a publicly accessible website on the Internet.

**Sec. 2. 36 MRSA §1760, sub-§45, ¶A-3,** as amended by PL 2011, c. 380, Pt. GGGG, §2, is further amended to read:

A-3. If the property is an aircraft not exempted under subsection 88 or 88-A and the owner at the time of purchase was a resident of another state or tax jurisdiction and the aircraft is present in this State not more than 20 days during the 12 months following its purchase, exclusive of days during which the aircraft is in this State for the purpose of undergoing "major alterations," "major repairs" or "preventive maintenance" as those terms are described in 14 Code of Federal Regulations, Appendix A to Part 43, as in effect on January 1, 2005. For the purposes of this paragraph, the location of an aircraft on the ground in the State at any time during a day is considered presence in the State for that entire day, and a day must be disregarded if at any time during that day the aircraft is used to provide free emergency or compassionate air transportation arranged by an incorporated nonprofit organization providing free air transportation in private aircraft by volunteer pilots so children and adults may access life-saving medical care; ø

**Sec. 3. 36 MRSA §1760, sub-§45, ¶A-4** is enacted to read:

A-4. If the property is brought into this State solely to conduct activities directly related to a declared state disaster or emergency, at the request of the State, a county, city, town or political subdivision of the State or a registered business, the property is owned by a person not otherwise required to register as a seller under section 1754-B and the property is present in this State only during a disaster period. As used in this paragraph, "declared state disaster or emergency" has the same meaning as in Title 10, section 9902, subsection 1 and "disaster period" means the period of 60 days that begins with the date of the

Governor's proclamation of a state of emergency or the declaration by the President of the United States of a major disaster or major emergency, whichever occurs first; or

**Sec. 4. 36 MRSA §5102, sub-§§6-B and 6-C** are enacted to read:

**6-B. Declared state disaster or emergency.** "Declared state disaster or emergency" has the same meaning as in Title 10, section 9902, subsection 1.

**6-C. Disaster period.** "Disaster period" means the period of 60 days that begins with the date of the Governor's proclamation of a state of emergency or the declaration by the President of the United States of a major disaster or major emergency, whichever occurs first.

**Sec. 5. 36 MRSA §5142, sub-§8-B,** as enacted by PL 2011, c. 380, Pt. CCCC, §2 and affected by §4, is amended to read:

**8-B. Minimum taxability threshold; exemptions.** Minimum taxability thresholds for nonresidents are governed by this subsection.

A. Compensation Except as provided by paragraph D, compensation for personal services performed in the State as an employee is Maine-source income subject to taxation under this Part if the nonresident taxpayer is present in the State performing personal services for more than 12 days during that taxable year and directly earns or derives more than \$3,000 in gross income during the year in the State from all sources.

B. A Except as provided by paragraph D, a nonresident individual who is present for business in the State on other than a systematic or regular basis, either directly or through agents or employees, has Maine-source income derived from or effectively connected with a trade or business in the State and subject to taxation under this Part only if the nonresident individual was present in the State for business more than 12 days during the taxable year and earns or derives more than \$3,000 of gross income during the taxable year from contractual or sales-related activities.

C. Performance of the following personal services for 24 days during a calendar year may not be counted toward the 12-day threshold under paragraph A:

- (1) Personal services performed in connection with presenting or receiving employment-related training or education;
- (2) Personal services performed in connection with a site inspection, review, analysis of management or any other supervision of a facility, affiliate or subsidiary based in the State by a representative from a company, not

headquartered in the State, that owns that facility or is the parent company of the affiliate or subsidiary;

(3) Personal services performed in connection with research and development at a facility based in the State or in connection with the installation of new or upgraded equipment or systems at that facility; or

(4) Personal services performed as part of a project team working on the attraction or implementation of new investment in a facility based in the State.

D. Compensation for personal services performed in the State as an employee and income derived from or effectively connected with a trade or business in the State is not Maine-source income subject to taxation under this Part if the nonresident taxpayer is present in the State during the taxable year solely for the performance of services or the conducting of business during a disaster period and the compensation or income is directly related to a declared state disaster or emergency and the services were requested by the State, a county, city, town or political subdivision of the State or a registered business.

**Sec. 6. 36 MRSA §5211, sub-§16-B** is enacted to read:

**16-B. Sales factor formula for certain disaster period receipts.** The sales factor must exclude from the numerator sales receipts of a person whose only business activity in the State during the taxable year is the performance of services during a disaster period that are solely and directly related to a declared state disaster or emergency that were requested by the State, a county, city, town or political subdivision of the State or a registered business.

**Sec. 7. Application.** Those sections of this Act that enact the Maine Revised Statutes, Title 36, section 5102, subsections 6-B and 6-C and Title 36, section 5211, subsection 16-B and that amend Title 36, section 5142, subsection 8-B apply to tax years beginning on or after January 1, 2013.

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

Effective April 12, 2012.

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**CHAPTER 623**  
**H.P. 1309 - L.D. 1784**  
**An Act To Reform**  
**Telecommunications**  
**Regulation**

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

**PART A**

**Sec. A-1. 35-A MRSA §102, sub-§6-B** is enacted to read:

**6-B. Federal interconnection rights and obligations.** "Federal interconnection rights and obligations" means the rights and obligations of a telecommunications entity under 47 United States Code, Sections 251 and 252 or any other provision of federal law or regulation governing telecommunications network facility interconnection or wholesale access rights and obligations to the extent the rights and obligations under the federal law or regulation may be regulated or overseen by the commission.

**Sec. A-2. 35-A MRSA §102, sub-§§9-B to 9-E** are enacted to read:

**9-B. Incumbent local exchange carrier.** "Incumbent local exchange carrier" means, with respect to an area, the local exchange carrier that on February 8, 1996 provided telephone exchange service in the area and:

A. On February 8, 1996 was deemed to be a member of the exchange carrier association pursuant to 47 Code of Federal Regulations, Section 69.601(b); or

B. Is a person or entity that, on or after February 8, 1996, became a successor or assign of a member described in paragraph A.

**9-C. Interconnected voice over Internet protocol service.** "Interconnected voice over Internet protocol service" means a service that enables real-time, 2-way voice communications; requires a broadband connection from the user's location; and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

**9-D. Interexchange carrier.** "Interexchange carrier" means any person, association, corporation or other entity that provides intrastate interexchange telecommunications services, including a local exchange carrier that provides interexchange service.

**9-E. Local exchange carrier.** "Local exchange carrier" means any person that is engaged in the provision of telephone exchange service or exchange access. "Local exchange carrier" does not include a person insofar as that person is engaged in the provision of a commercial mobile service under 47 United States Code, Section 332(c), unless the commission by rule determines that the Federal Communications Commission includes such service in the definition of the term. "Local exchange carrier" does not include a person insofar as that person is engaged in the provision of interconnected voice over Internet protocol service

unless the person is providing provider of last resort service. "Local exchange carrier" does not include a person insofar as the person is a dark fiber provider.

**Sec. A-3. 35-A MRSA §102, sub-§11-A** is enacted to read:

**11-A. Provider of last resort service.** "Provider of last resort service" has the same meaning as in section 7201.

**Sec. A-4. 35-A MRSA §102, sub-§12-A** is enacted to read:

**12-A. Public switched telephone network.** "Public switched telephone network" means the network of equipment, lines and controls assembled to establish communication paths between calling and called parties in North America.

**Sec. A-5. 35-A MRSA §102, sub-§18-B** is enacted to read:

**18-B. Telephone exchange service.** "Telephone exchange service" means service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and that is covered by an exchange service charge, or comparable service provided through a system of switches, transmission equipment or other facilities, or combination thereof, by which a subscriber can originate and terminate a telecommunications service.

**Sec. A-6. 35-A MRSA §102, sub-§21-A** is enacted to read:

**21-A. Voice service provider.** "Voice service provider" means any person providing, directly or indirectly, 2-way voice communications service for compensation in this State. "Voice service provider" does not include a dark fiber provider.

**Sec. A-7. 35-A MRSA §102, sub-§24** is enacted to read:

**24. Wholesale competitive local exchange carrier.** "Wholesale competitive local exchange carrier" means a local exchange carrier, other than an incumbent local exchange carrier, that provides a wholesale telecommunications service but does not provide telephone exchange service to a retail subscriber.

**Sec. A-8. 35-A MRSA §112**, as amended by PL 2003, c. 505, §§7 and 8, is further amended to read:

**§112. Power to obtain information**

**1. Investigation of management of business.** The commission may inquire into the management of the business of all public utilities and shall keep itself informed as to the manner and method in which each is conducted. The provisions of this subsection do not

apply to any telephone utility other than a provider of provider of last resort service with respect to the provision of provider of last resort service.

**2. Facilities and information to be furnished.** Every public utility shall furnish the commission with:

- A. All reasonable facilities for the prompt and faithful discharge of its duties; and
- B. All information necessary to perform its duties and carry into effect this Title. If it is unable to furnish the information, it shall give a good and sufficient reason for the failure, and the reason for the failure shall be verified by an officer, owner or agent of the public utility and returned to the commission at its office within the time fixed by the commission.

The provisions of this subsection do not apply to any telephone utility other than a provider of provider of last resort service with respect to the provision of provider of last resort service.

**3. Inspection of books and papers; confidentiality.** The following provisions apply to inspection of books and papers.

- A. The commission or any commissioner or any person employed by it for that purpose, may upon demand inspect and copy the books, accounts, papers, records and memoranda of any public utility in relation to its business and affairs.
- B. A person other than a commissioner must produce his authority to make an inspection.
- C. A person employed by the commission to inspect utilities documents may not divulge information ascertained by inspection except:
  - (1) To the commission; or
  - (2) Under direction of the commission.
- D. Any person who violates this subsection is guilty of a Class E crime.

The provisions of this subsection do not apply to any telephone utility other than a provider of provider of last resort service with respect to the provision of provider of last resort service.

**4. Production of documents; failure to obey.** The commission may require the production of documents as follows.

- A. The commission may require, by order or subpoena to be served on any public utility or its agent in the same manner that a summons is served in a civil action in the Superior Court, the production of any books, accounts, papers, records or verified copies of them kept by a public utility or within the control of a public utility in any office or place within or outside the State, so

that an examination may be made by the commission or under its direction.

C. Subject to the requirements of the United States Constitution and the Constitution of Maine and upon a finding that there is probable cause to believe that a public utility is altering, amending, removing or destroying any of its books, accounts, papers or records in an attempt to frustrate an investigation of the commission, a Judge of the District Court or a Justice of the Peace, at the request of the commission and without notice, may issue a search warrant requiring seizure of those documents that are necessary for the commission to discharge its duties.

The provisions of this subsection do not apply to any telephone utility other than a provider of provider of last resort service with respect to the provision of provider of last resort service.

**5. Telephone utilities.** Every telephone utility, dark fiber provider, voice service provider and wholesale competitive local exchange carrier shall provide to the commission upon request or order information relevant to the commission's implementation or enforcement of any provision of state or federal law or rule to which the telephone utility, dark fiber provider, voice service provider or wholesale competitive local exchange carrier is subject and over which the commission exercises authority or jurisdiction. A telephone utility, dark fiber provider, voice service provider or wholesale competitive local exchange carrier that fails to comply with a commission order directing the production of information relevant to the commission's implementation or enforcement of a provision of state or federal law or rule to which the telephone utility, dark fiber provider, voice service provider or wholesale competitive local exchange carrier is subject and over which the commission exercises authority or jurisdiction is in violation of this subsection.

**Sec. A-9. 35-A MRSA §113, sub-§4** is enacted to read:

**4. Telephone utilities.** This section does not apply to any telephone utility other than a provider of provider of last resort service. The commission may not conduct or require a management audit under subsection 1 or 2 of a provider of provider of last resort service unless the commission finds that there is no less burdensome means of obtaining the information sought to be obtained in the management audit and:

- A. The provider has filed for an increase in provider of last resort service rates;
- B. The provider has filed for an increase in funding from a state universal service fund under section 7104; or
- C. The commission, following an investigation, finds that the provider's provider of last resort ser-

vice quality has declined in a manner contrary to the public interest.

**Sec. A-10. 35-A MRSA §508** is enacted to read:

**§508. Telephone utilities**

The provisions of this chapter do not apply to a telephone utility other than a provider of provider of last resort service with respect to its provider of last resort service accounts. The commission may not require a provider of provider of last resort service to keep its accounts in a manner that is substantially different from federal accounting standards applicable to telecommunications companies under 47 Code of Federal Regulations, Part 32 or any replacement accounting standards adopted by the Federal Communications Commission.

**Sec. A-11. 35-A MRSA §707, sub-§1**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Affiliated interest" means:

(1) Any person who owns directly, indirectly or through a chain of successive ownership, 10% or more of the voting securities of a public utility; With respect to a public utility other than a provider of provider of last resort service:

(a) Any person who owns directly, indirectly or through a chain of successive ownership 10% or more of the voting securities of a public utility;

(b) Any person, 10% or more of whose voting securities are owned, directly or indirectly, by an affiliated interest as defined in division (a);

(c) Any person, 10% or more of whose voting securities are owned, directly or indirectly, by a public utility;

(d) Any person, or group of persons acting in concert, that the commission may determine, after investigation and hearing, exercises substantial influence over the policies and actions of a public utility, if the person or group of persons beneficially owns more than 3% of the public utility's voting securities; or

(e) Any public utility of which any person defined in divisions (a) to (d) is an affiliated interest; or

(2) Any person, 10% or more of whose voting securities are owned, directly or indi-

rectly, by an affiliated interest as defined in subparagraph (1); With respect to a provider of provider of last resort service:

(a) Any person who owns directly, indirectly or through a chain of successive ownership 25% or more of the voting securities of a provider of provider of last resort service;

(b) Any person, 25% or more of whose voting securities are owned, directly or indirectly, by a provider of provider of last resort service;

(c) Any person, or group of persons acting in concert, that the commission may determine, after investigation and hearing, exercises substantial influence over the policies and actions of a provider of provider of last resort service, if the person or group of persons beneficially owns more than 3% of the provider's voting securities; or

(d) Any provider of provider of last resort service of which any person defined in divisions (a) to (c) is an affiliated interest.

(3) Any person, 10% or more of whose voting securities are owned, directly or indirectly, by a public utility;

(4) Any person, or group of persons acting in concert, which the commission may determine, after investigation and hearing, exercises substantial influence over the policies and actions of a public utility, provided that the person or group of persons beneficially owns more than 3% of the public utility's voting securities; or

(5) Any public utility of which any person defined in subparagraphs (1) to (4) is an affiliated interest.

B. "Transaction" means any dealings between a public utility and its affiliated interests ~~as defined in paragraph A~~ which affects that affect, directly or indirectly, any accounting entry of the public utility, as prescribed pursuant to section 501.

C. "Voting security" means any security or any proprietary or other interest presently entitling the owner or holder of the security to vote in the direction or management of the affairs of a company.

**Sec. A-12. 35-A MRSA §707, sub-§6** is enacted to read:

**6. Application.** This section does not apply to any telephone utility other than a provider of provider of last resort service with respect to affiliated interests

that are directly related to or that may directly affect provider of last resort service in this State, as determined by the commission by rule or order. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. A-13. 35-A MRSA §708, sub-§1, ¶C** is enacted to read:

C. "Controlling interest" means:

(1) Voting power over voting shares of a corporation or entity that entitle the holders of those shares to cast at least 25% of the votes that all shareholders are entitled to cast in an election of the directors of the corporation or entity; or

(2) Voting power over at least 25% of the shares in any class of shares entitled to elect all the directors or any specified number of the directors.

For the purposes of this section, a person does not have a controlling interest if that person holds voting power, in good faith and not for the purpose of circumventing this section, as an agent, bank broker, nominee or trustee for one or more beneficial owners who do not individually or, if they are a group acting in concert, as a group have the voting power specified under this paragraph or who are not considered to have a controlling interest under this paragraph.

A person has voting power over a voting share if that person has shares, directly or indirectly, through any option, contract, arrangement, understanding, voting trust or conversion right or, by acting jointly or in concert or otherwise, has the power to vote, or to direct the voting of, that voting share.

**Sec. A-14. 35-A MRSA §708, sub-§5** is enacted to read:

**5. Limitation.** The provisions of this section do not apply to any telephone utility other than a provider of provider of last resort service and apply to a provider of provider of last resort service only if the reorganization results in a merger, sale or transfer of a controlling interest of the provider of provider of last resort service.

**Sec. A-15. 35-A MRSA §912**, as amended by PL 2001, c. 137, §5, is further amended to read:

**§912. Exemption for certain telephone utilities**

The provisions of this chapter do not apply to any telephone utility other than a provider of provider of last resort service.

The commission may adopt by rule standards and procedures for granting exemptions to a telephone

utility or a specified group of telephone utilities providers of provider of last resort service from all or specified portions of this chapter. Any exemption granted pursuant to the rule must be accompanied by a finding that the exemption is in the public interest and will not have a negative impact on competitive markets for telephone services. The commission may limit an exemption to specific geographic areas. A utility granted an exemption pursuant to a rule adopted under this section remains subject to other applicable provisions of this Title and commission rules.

For good cause, as defined by the commission by rule, the commission may revoke any exemption granted pursuant to this section. A revocation may be in whole or in part and may be specific to a single telephone utility or a single utility provider of provider of last resort service.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

**Sec. A-16. 35-A MRSA §2101**, as corrected by RR 2001, c. 2, Pt. B, §54 and affected by §58, is amended to read:

**§2101. Organization of certain public utilities**

A public utility for the operation of telephones provider of provider of last resort service, a local exchange carrier and a public utility for the purpose of making, selling, distributing and supplying gas or electric transmission and distribution service or for the operation of water utilities, ferries or public heating utilities in any municipality, or 2 or more adjoining municipalities, within the State, may be organized as a legal entity authorized under the laws of the State, including Title 13-C.

**Sec. A-17. 35-A MRSA §2102**, as amended by PL 2009, c. 612, §§5 and 6, is further amended to read:

**§2102. Approval to furnish service**

The following provisions apply to furnishing service.

**1. Approval required.** Except as provided in subsection 2 and in section 4507, a public utility may not furnish any of the services set out in section 2101 in or to any municipality in or to which another public utility is furnishing or is authorized to furnish a similar service, ~~and a dark fiber provider may not offer federally supported dark fiber,~~ without the approval of the commission. The commission may condition approval upon the submission of a bond or other financial security if the commission determines that such a requirement is necessary to ensure that a public utility has the financial ability to meet its obligations under this Title.

~~A. The commission may not grant approval to a telephone utility under this subsection unless the~~

~~telephone utility submits evidence satisfactory to the commission that the telephone utility has at least \$250,000 in fixed assets in this State or the telephone utility purchases and maintains a surety bond satisfactory to the commission in the amount of \$250,000 to ensure the telephone utility has the financial ability to meet its obligations under this Title. This paragraph does not apply to a telephone utility authorized to provide telephone service in this State on the effective date of this paragraph.~~

**2. Approval not required.** Except as provided in section 2104, the commission's approval is not required for a public utility to furnish service in any municipality in which that public utility is furnishing service on October 8, 1967. ~~Approval is not required for the operation of a radio paging service or mobile telecommunications services. Approval is not required for a transmission and distribution utility to distribute electricity to any other transmission and distribution utility.~~

**3. Exemption for certain telephone utilities.** ~~The commission by rule may exempt a specified telephone utility or group of telephone utilities from obtaining the approval required by subsection 1 if the commission finds that the exemption will not result in unjust or unreasonable rates or inadequate service for any telephone utility customers. The commission may limit the exemption to specified geographic areas. For good cause, as provided in the rule establishing the exemption, the commission may revoke an exemption in whole or in part, including an exemption granted to a single telephone utility. A telephone utility that is exempt from the approval requirement of subsection 1: The provisions of this section do not apply to any telephone utility except a provider of provider of last resort service with respect to the provision of provider of last resort service and a local exchange carrier.~~

~~A. Before commencing service, shall notify the commission of its intent to commence the exempted service and provide any other information the commission may require;~~

~~B. Shall obtain the approval of the commission under subsection 1 to provide any service other than the services specified in the exemption granted by the commission under this subsection; and~~

~~C. Remains subject to any other applicable provisions of this Title and commission rules.~~

~~Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II A and must be submitted to the Joint Standing Committee on Utilities and Energy by January 1, 1999.~~

~~**4. Dark fiber provider.** The commission shall issue its order approving or denying an application~~

~~from a dark fiber provider for approval under this section, including its decision on any waivers or exemptions requested by the dark fiber provider in conjunction with its application, within 60 days of receipt of the application, except that if the commission determines that it requires additional time, it may extend its review and issue its order no later than 90 days after receipt of the application.~~

**Sec. A-18. 35-A MRSA c. 72** is enacted to read:

**CHAPTER 72**

**TELECOMMUNICATIONS REGULATORY REFORM**

**SUBCHAPTER 1**

**GENERAL PROVISIONS**

**§7201. Definitions**

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

**1. Access to directory assistance.** "Access to directory assistance" means access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings.

**2. Access to emergency services.** "Access to emergency services" means access to emergency services, as defined in Title 25, section 2921, subsection 5, through 9-1-1 or enhanced 9-1-1 service, as defined in Title 25, section 2921, subsection 6, to the extent a local government in the service area of a provider of last resort service provides 9-1-1 or enhanced 9-1-1 services.

**3. Access to interexchange service.** "Access to interexchange service" means the use of the wireline loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network.

**4. Access to operator services.** "Access to operator services" means access to any automatic or live assistance by a consumer to arrange for billing for or completion of a telephone call or both.

**5. Dual-tone multifrequency signaling.** "Dual-tone multifrequency signaling" means a method of signaling that facilitates the transportation of signaling through a network, shortening call set-up time.

**6. Local usage.** "Local usage" means an amount of minutes of use of exchange service within a certain area, prescribed by the commission, provided for a flat rate to end users.

**7. Provider of last resort service.** "Provider of last resort service" means a flat-rate service with voice grade access to the public switched telephone network; local usage within the basic service calling areas of incumbent local exchange carriers as of January 1, 2012; dual-tone multifrequency signaling or its functional equivalent; single-party service or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; toll limitation for qualifying low-income customers; and the capacity to maintain uninterrupted voice service during a power failure, either through the incorporation into the network or network interface devices of suitable battery backup or through electric current.

**8. Service provider.** "Service provider" means an entity designated as a provider of provider of last resort service under this chapter.

**9. Single-party service.** "Single-party service" means telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed or, in the case of wireless telecommunications carriers that use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission.

**10. Toll limitation for qualifying low-income customers.** "Toll limitation for qualifying low-income customers" means a service provided to customers of provider of last resort service that meet income qualifications established by the commission by rule that allows those customers:

A. To elect not to allow the completion of outgoing toll calls; or

B. To limit the amount of toll usage that the customer may incur.

With respect to a service provider that has the capacity to allow customers both options described in paragraphs A and B, "toll limitation for qualifying low-income customers" means a service that offers both options to those customers. With respect to a service provider that does not have the capacity to allow customers both options, "toll limitation for qualifying low-income customers" means a service that offers one of the options to those customers.

**11. Voice grade access.** "Voice grade access" means a functionality that offers a minimum bandwidth range of 300 to 3,000 hertz that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call.

## **SUBCHAPTER 2**

### **PROVIDER OF LAST RESORT SERVICE**

#### **§7221. Designation of service providers**

**1. Initial designation of service providers.** An entity that was an incumbent local exchange carrier as of January 1, 2012 shall provide provider of last resort service within its service area.

**2. Reassignment of service provider obligation.** A service provider may petition the commission for authorization to assign its provider of last resort service obligation for a given geographic area to another voice service provider. The commission shall by rule develop a process for identifying and approving replacement service providers, but in no event may a voice service provider be designated as a replacement service provider without the express consent of the voice service provider. Before authorizing the reassignment of the provider of last resort service obligation to another voice service provider, the commission shall ensure that the voice service provider possesses the financial and technical capability to meet all provider of last resort service standards set by the commission by rule. The commission may not reassign the provider of last resort service obligation to any entity that would provide the service only as a reseller, as determined by the commission by rule.

**3. Modification of service obligations.** Notwithstanding section 7201, subsection 7, the commission, in an adjudicatory proceeding, may relieve a service provider of the requirement that it have the capacity to maintain uninterrupted voice service during a power failure, either through the incorporation into the network or network interface devices of suitable battery backup or through electric current. The commission may grant the relief only if it finds that doing so is in the public interest. In determining that granting relief under this section is in the public interest, the commission must find that the benefits that would accrue to customers of the provider of last resort service from providing the relief would exceed the benefits to those customers of preserving the requirement.

#### **§7222. Revenue requirements of service providers**

The initial rates for provider of last resort service are those rates in effect for basic local exchange service for each incumbent local exchange carrier in the service area of that carrier as of January 1, 2012.

#### **§7223. Provider of last resort service consumer protection**

A service provider in accordance with rules adopted by the commission:

**1. Information.** Shall provide customers adequate and timely information about provider of last resort service including posting in an easily discover-

able location on its publicly accessible website its rate for provider of last resort service;

**2. Fairness.** Shall treat its customers in a non-discriminatory manner and may not unreasonably deny or disconnect provider of last resort service; and

**3. Consumer protection.** Shall comply with minimum consumer protection standards for provider of last resort service essential to the preservation of good quality, affordable provider of last resort service throughout the State.

A customer of a service provider may seek redress from the commission in accordance with any applicable provisions of this Title with respect to provider of last resort service, regardless of any other services the customer may take from the service provider. A service provider may not disconnect a provider of last resort service customer from provider of last resort service except in accordance with rules adopted by the commission. This section does not authorize the commission to regulate services other than provider of last resort service, including but not limited to discontinuance by the service provider of any other services to the customer.

#### **§7224. Ancillary services**

If a service provider offers an ancillary service to any customer, it shall offer that service to its provider of last resort service customers individually in conjunction with provider of last resort service and may not require that the ancillary service be bundled with any other ancillary services. For purposes of this section, "ancillary service" means a service that allows a customer to manage the display of information identifying the originator of a voice call or to manage the delivery of a voice call, including but not limited to call waiting and call forwarding, and is related to the provisioning of voice grade access to the public switched telephone network so that the customer is unable to obtain a functionally equivalent service from any device or service offered by an entity other than the service provider.

#### **§7225. Service quality**

**1. Service quality reporting.** The commission by rule shall establish service quality indicators with respect to which service providers shall regularly report. The service quality indicators may relate only to:

- A. Network trouble rates;
- B. The percentage of network troubles not resolved within 24 hours;
- C. The percentage of installation appointments not met;
- D. The average delay, in days, for missed installation appointments; and
- E. Service outages.

**2. Commission review of service quality.** The commission by rule shall establish provider of last resort service quality standards. The commission may impose penalties or require a service provider to provide rebates or rate reductions if the commission finds, after investigation, that a service provider has failed to meet service quality standards.

**3. Rules.** Rules adopted under this section may establish appropriate penalties, rebates or rate reductions that may be applied if the commission finds, after investigation, that a service provider has failed to meet service quality standards. Rules adopted under this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

#### **§7226. Certain information requirements and limitations**

Notwithstanding section 112, the commission may not require a service provider:

**1. Infrastructure maps.** To provide to the commission infrastructure maps that contain a level of detail that is greater than the infrastructure maps filed for that service provider's service territory prior to March 1, 2012 or that depict the infrastructure connecting interoffice facilities to remote terminals and digital loops; or

**2. Outage reporting.** To submit notices to the commission of unscheduled service outages or notices of restorations of service earlier than 7 calendar days following the restoration of service.

#### **§7227. Rules**

The commission shall adopt rules to implement this subchapter. Except as otherwise provided in this subchapter, rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

### **SUBCHAPTER 3**

#### **REGULATORY REFORM**

#### **§7231. Laws that apply only to service providers**

Notwithstanding any other provision of law, the provisions listed in subsections 1 to 4 do not apply to a telephone utility except service providers with respect to the provision of provider of last resort service:

**1. Regulation and control of public utilities.** The following sections of chapter 7:

- A. Section 703 relating to discounts and discrimination;
- B. Section 704 relating to termination of utility services;
- C. Section 705 relating to utility deposits;
- D. Section 706 relating to tenant liability for landlord utility bills;

E. Section 713 relating to unregulated business ventures; and

F. Section 715 relating to rules of the commission;

**2. Sales, leases and mortgages of property.**

The following sections of chapter 11:

A. Section 1101 relating to authorization; and

B. Section 1103 relating to transfer of utility stock;

**3. Procedure.** The following sections of chapter 13:

A. Section 1302 relating to complaints; and

B. Section 1303 relating to investigations; and

**4. Telephone lines.** The following sections of chapter 79:

A. Section 7904 relating to purchasing and taking land for public use.

**§7232. Laws that apply only to service providers and local exchange carriers for limited purposes**

Notwithstanding any other provision of law, the provisions listed in subsections 1 to 5 do not apply to a telephone utility except service providers with respect to the provision of provider of last resort service and local exchange carriers with respect to federal interconnection rights and obligations:

**1. Rates of public utilities.** The provisions of chapter 3 relating to the rates of public utilities.

The commission may adopt by rule standards and procedures for granting exemptions from all or specified portions of chapter 3 to service providers with respect to the provision of provider of last resort service or to local exchange carriers with respect to federal interconnection rights and obligations. Any exemption granted pursuant to rule must be accompanied by a finding that the exemption is in the public interest and will not result in unjust or unreasonable rates or have a negative impact on competitive markets for telephone services. The commission may limit an exemption to specific geographic areas. An entity granted an exemption pursuant to a rule adopted under this section remains subject to otherwise applicable provisions of chapter 3.

For good cause, as defined by the commission by rule, the commission may revoke any exemption granted pursuant to this subsection. A revocation may be in whole or in part and may be specific to individual entities or services.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A:

**2. Regulation and control of public utilities.**

The following sections of chapter 7:

A. Section 701 relating to special privileges;

B. Section 702 relating to unjust discrimination;

C. Section 709 relating to insider transactions;

D. Section 710 relating to accident investigations;

E. Section 712 relating to competitive bidding; and

F. Section 714 relating to notice of certain business activities;

**3. Authorization of sales, leases and mortgages of property.** The following sections of chapter 11:

A. Section 1102 relating to unnecessary property; and

B. Section 1104 relating to abandonment of property or service;

**4. Procedure.** The following sections of chapter 13:

A. Section 1306 relating to commission decisions;

B. Section 1307 relating to enforcement of decisions;

C. Section 1308 relating to reparation or adjustments;

D. Section 1309 relating to adjustment of excessive rates; and

E. Section 1323 relating to exhausting of rights before the commission; and

**5. Sanctions and administrative penalties.** The following sections of chapter 15:

A. Section 1511 relating to revocation and suspension of authority to provide service.

**§7233. Laws that apply only to service providers and local exchange carriers**

Notwithstanding any other provision of law, the provisions listed in subsection 1 do not apply to a telephone utility except service providers with respect to the provision of provider of last resort service and local exchange carriers:

**1. Organization, powers and service territory.**

The following sections of chapter 21:

A. Section 2105 relating to approval after hearing;

B. Section 2107 relating to approval only to Maine corporations;

C. Section 2108 relating to holding real estate; and

D. Section 2110 relating to extension of service.

**§7234. Interconnected voice over Internet protocol service**

Notwithstanding any other provision of law, a person, insofar as that person is providing interconnected voice over Internet protocol service, is not subject to any regulation under this Title as a telephone utility or as a public utility unless the person is providing provider of last resort service. Nothing in this section affects the application of any provision of this Title that otherwise expressly applies to a person providing interconnected voice over Internet protocol service or to voice service providers.

**§7235. Dark fiber providers**

Notwithstanding any other provision of law, a person, insofar as that person is a dark fiber provider, is not subject to any regulation under this Title as a telephone utility or as a public utility. Nothing in this section affects the application of any provision of this Title that otherwise expressly applies to a dark fiber provider.

**Sec. A-19. 35-A MRSA §7501**, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

**Sec. A-20. 35-A MRSA §7501-A**, as enacted by PL 1991, c. 45, is repealed.

**Sec. A-21. 35-A MRSA §7501-B** is enacted to read:

**§7501-B. Directories**

A telephone utility is not required to publish a hard-copy telephone directory. A provider of provider of last resort service shall annually offer its provider of last resort service customers the option to receive a telephone directory in an electronic format or in the form of a printout of the electronic database showing the names, addresses and telephone numbers of persons and businesses, other than of those who have requested unlisted numbers. The service provider shall annually provide notice to each of its provider of last resort service customers of this option.

**Sec. A-22. 35-A MRSA §7502**, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

**Sec. A-23. Alternative form of regulation.** The Public Utilities Commission may not enforce provisions of any order establishing an alternative form of regulation for an incumbent local exchange carrier pursuant to the Maine Revised Statutes, Title 35-A, chapter 91 that:

1. Prohibit an incumbent local exchange carrier from charging rates for nonresidential service that are below the long-run incremental cost of providing that service or that establish some other minimum price requirement for services to nonresidential customers;

2. Impose multiplier penalties for repeated failures to meet service quality index performance standards with respect to any actions, inactions or other performance of that carrier occurring after July 31, 2010. This subsection does not affect the authority of the commission to impose base penalties for violations of service quality index performance standards or to require continued payment of penalties that have been established for violations that occurred prior to August 1, 2010;

3. Impose service quality index performance standards, or impose penalties for failure to meet such standards, with respect to any actions, inactions or other performance of that carrier occurring after July 31, 2012; or

4. Require the tariffing of any rates or services other than those relating to provider of last resort service under Title 35-A, chapter 72.

For any incumbent local exchange carrier subject to an order establishing an alternative form of regulation pursuant to Title 35-A, chapter 91, the commission, in an adjudicatory proceeding, shall establish service standards relating to provider of last resort service for the period of August 1, 2012 to July 31, 2013. The standards must relate only to network trouble rates, the percentage of network troubles not resolved within 24 hours, the percentage of installation appointments not met, the average delay, in days, for missed installation appointments and service outages. The commission may impose penalties, which may not exceed an annual amount of \$2,000,000, for violations of the standards.

The Legislature finds that the provisions of this section are appropriate because of extraordinarily compelling and unique circumstances, including but not limited to dramatic changes in the telecommunications market in recent years, the bankruptcy and subsequent emergence from bankruptcy of the largest telecommunications provider in the State and the need for regulatory reform of the telecommunications industry.

**Sec. A-24. Directories.** Each incumbent local exchange carrier shall publish at least one more edition of each telephone directory that it published within the 24 months prior to the effective date of this Act. In the last published edition, the carrier shall include on the directory cover a prominent notice of customer options relating to receiving the directory information pursuant to the Maine Revised Statutes, Title 35-A, section 7501-B.

**Sec. A-25. Rates for provider of last resort service.** The Public Utilities Commission shall convene a stakeholder group to create an appropriate framework for establishing rates for provider of last resort service, including methodology, appropriate cost considerations and standards for the availability

and amount of support from a universal service fund established in the Maine Revised Statutes, Title 35-A, section 7104. The commission shall seek to find the most effective framework to avoid rate deaveraging and that keeps rates in high-cost areas as low as is reasonably possible. The commission shall invite the participation of as broad and inclusive a group of entities as possible, including the Office of the Public Advocate and representatives of affected telecommunications industry entities or groups and consumer interest entities or groups, and shall involve those entities or groups in a collaborative process that seeks to find as much common ground and agreement as reasonably possible. The commission shall submit a report to the joint standing committee of the Legislature having jurisdiction over utilities and technology matters by January 15, 2013 describing the work of the stakeholder group, where agreement was found and where disagreements remain, the commission's recommendations and the positions of the stakeholders on those recommendations. The joint standing committee may report out a bill related to the subject of the report to the First Regular Session of the 126th Legislature.

## PART B

**Sec. B-1. 35-A MRSA §116, sub-§1**, as amended by PL 2007, c. 478, §1, is further amended to read:

**1. Entities subject to assessments.** Every transmission and distribution, gas, telephone and water utility and ferry subject to regulation by the commission and every qualified telecommunications provider is subject to an assessment on its intrastate gross operating revenues to produce sufficient revenue for expenditures allocated by the Legislature for the Public Utilities Commission Regulatory Fund established pursuant to this section. The budget for the Public Utilities Commission Regulatory Fund is subject to legislative review and approval in accordance with subsection 2. The portion of the total assessment applicable to each category of public utility or qualified telecommunications provider is based on an accounting by the commission of the portion of the commission's resources devoted to matters related to each category. The commission shall develop a reasonable and practicable method of accounting for resources devoted by the commission to matters related to each category of public utility or qualified telecommunications provider. Assessments on each public utility or qualified telecommunications provider within each category must be based on the utility's or qualified telecommunications provider's gross intrastate operating revenues. The commission shall determine the assessments annually prior to May 1st and assess each utility or qualified telecommunications provider for its pro rata share for expenditure during the fiscal year beginning July 1st. Each utility or qualified telecommunications provider shall pay the assessment charged to the utility or qualified telecommunications provider

on or before July 1st of each year. Any increase in the assessment that becomes effective subsequent to May 1st may be billed on the effective date of the act authorizing the increase.

A. The assessments charged to utilities and qualified telecommunications providers under this section are just and reasonable operating costs for rate-making purposes.

B. For the purposes of this section, "intrastate gross operating revenues" means intrastate revenues derived from filed rates and rates ~~that are exempt from filing requirements pursuant to rules adopted by the commission under section 307-A charged by a qualified telecommunications provider~~, except revenues derived from sales for resale.

C. Gas utilities subject to the jurisdiction of the commission solely with respect to safety are not subject to any assessment.

D. The commission may correct any errors in the assessments by means of a credit or debit to the following year's assessment rather than reassessing all utilities or qualified telecommunications providers in the current year.

E. The commission may exempt utilities or qualified telecommunications providers with annual intrastate gross operating revenues under \$50,000 from assessments under this section.

For purposes of this section, "qualified telecommunications provider" means a provider of interconnected voice over Internet protocol service that paid any assessment under this subsection, whether voluntarily, by agreement with the commission or otherwise, prior to March 1, 2012.

**Sec. B-2. 35-A MRSA §116, sub-§3**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**3. Deposit of funds.** All revenues derived from assessments levied against utilities or qualified telecommunications providers described in this section ~~shall~~ must be deposited with the Treasurer of State in a separate account to be known as the Public Utilities Commission Regulatory Fund.

**Sec. B-3. 35-A MRSA §116, sub-§8**, as amended by PL 2007, c. 539, Pt. KK, §13, is further amended to read:

**8. Public Advocate assessment.** Every utility or qualified telecommunications provider subject to assessment under this section is subject to an additional annual assessment on its intrastate gross operating revenues to produce sufficient revenue for expenditures allocated by the Legislature for operating the Office of the the Public Advocate. The portion of this assessment applicable to each category of public util-

ity or qualified telecommunications provider is based on an accounting by the Public Advocate of resources devoted to matters related to each category. The Public Advocate shall develop a reasonable and practicable method of accounting for resources devoted by the Public Advocate to matters related to each category of public utility or qualified telecommunications provider. Assessments on each public utility or qualified telecommunications provider within each category must be based on the utility's or qualified telecommunications provider's gross intrastate operating revenues. The revenues produced from this assessment are transferred to the Public Advocate Regulatory Fund and may only be used to fulfill the duties specified in chapter 17. The assessments charged to utilities and qualified telecommunications providers under this subsection are considered just and reasonable operating costs for rate-making purposes. The Public Advocate shall develop a method of accounting for staff time within the Office of the Public Advocate. All professional and support staff shall account for their time in such a way as to identify the percentage of time devoted to public utility and qualified telecommunications provider regulation and the percentage of time devoted to other duties that may be required by law.

A. The Public Advocate shall submit its budget recommendations as part of the unified current services budget legislation in accordance with Title 5, sections 1663 to 1665. The assessments and expenditures provided in this section are subject to legislative approval. The Public Advocate shall make an annual report of its planned expenditures for the year and on its use of funds in the previous year. The Public Advocate may also receive other funds as appropriated by the Legislature.

B. The Public Advocate may use the revenues provided in accordance with this section to fund the Public Advocate and 9 employees and to defray the costs incurred by the Public Advocate pursuant to this Title, including administrative expenses, general expenses, consulting fees and all other reasonable costs incurred to administer this Title.

C-1. Funds that are not expended at the end of a fiscal year do not lapse but must be carried forward to be expended for the purposes specified in this section in succeeding fiscal years.

**Sec. B-4. 35-A MRSA §711, sub-§§1 and 2,** as enacted by PL 1987, c. 141, Pt. A, §6, are amended to read:

**1. Joint use permitted.** The commission may order that joint use be permitted and prescribe reasonable compensation and reasonable terms and conditions for the joint use when, after a hearing had upon its own motion or upon complaint of a public utility, voice service provider, dark fiber provider, wholesale

competitive local exchange carrier or cable television system affected, it finds the following:

A. That public convenience and necessity require the use by one public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or cable television system of the conduits, subways, wires, poles, pipes or other equipment, or any part of them, on, over or under any street or highway and belonging to another public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or cable television system;

B. That joint use will not result in irreparable injury to the owner or other users of the conduits, subways, wires, poles, pipes or other equipment or in any substantial detriment to the service; and

C. That the public utilities, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or cable television system have failed to agree upon the use or the terms and conditions or compensation for the use.

**2. Liability of user.** If joint use is ordered, the public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or cable television system to whom the use is permitted ~~shall be~~ is liable to the owner or other users of the conduits, subways, wires, poles, pipes or other equipment for damage that may result from its use to the property of the owner or other users.

**Sec. B-5. 35-A MRSA §1508-A, sub-§1,** as enacted by PL 2003, c. 505, §23, is amended to read:

**1. Penalty.** Unless otherwise specified in law, the commission may, in an adjudicatory proceeding, impose an administrative penalty as specified in this section.

A. For willful violations of this Title, a commission rule or a commission order by a public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or a competitive electricity provider, the commission may impose an administrative penalty for each violation in an amount that does not exceed \$5,000 or .25% of the annual gross revenue that the public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or the competitive electricity provider received from sales in the State, whichever amount is lower. Each day a violation continues constitutes a separate offense. The maximum administrative penalty for any related series of violations may not exceed \$500,000 or 5% of the annual gross revenue that the public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or the competitive electricity provider received from sales in the State, whichever amount is lower.

B. For a violation in which a public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or a competitive electricity provider was explicitly notified by the commission that it was not in compliance with the requirements of this Title, a commission rule or a commission order and that failure to comply could result in the imposition of administrative penalties, the commission may impose an administrative penalty that does not exceed \$500,000.

C. The commission may impose an administrative penalty in an amount that does not exceed \$1,000 on any person that is not a public utility, voice service provider, dark fiber provider, wholesale competitive local exchange carrier or a competitive electricity provider and that violates this Title, a commission rule or a commission order. Each day a violation continues constitutes a separate offense. The administrative penalty may not exceed \$25,000 for any related series of violations.

D. In addition to the administrative penalties authorized by this subsection, the commission may require disgorgement of profits or revenues realized as a result of a violation of this Title, a commission rule or a commission order.

**Sec. B-6. 35-A MRSA §2301**, as amended by PL 2009, c. 612, §7, is further amended to read:

**§2301. Telephone providers and television corporations may construct lines**

Except as limited, every ~~corporation organized under section 2101 for the purpose of operating telephones, every~~ voice service provider, wholesale competitive local exchange carrier and dark fiber provider for the purposes of constructing and maintaining its federally supported dark fiber; and every corporation organized for the purpose of transmitting television signals by wire may construct, maintain and operate its lines upon and along the route or routes and between the points stated in its certificate of incorporation; and may construct its lines and necessary erections and fixtures for them along, over, under and across any of the roads and streets and across or under any of the waters upon and along the route or routes subject to the conditions and under the restrictions provided in this chapter and chapter 25.

**Sec. B-7. 35-A MRSA §2305-A**, as amended by PL 1999, c. 398, Pt. A, §35 and affected by §§104 and 105, is further amended to read:

**§2305-A. Transmission and distribution utilities and telephone providers to conform to standards**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Cable television company" has the same meaning as in Title 30-A, section 2001.

B. "Most recent edition of the Standard" means the 1993 edition or any subsequent edition of the Standard adopted by the commission pursuant to this section.

C. "Standard" means the National Electrical Safety Code (NEC)-ANSI-C2.

**2. Applicable national standard.** Except as otherwise provided in this section or by rule of the commission adopted pursuant to this section, every transmission and distribution utility, ~~telephone utility~~ entity authorized under section 2301 to construct lines and cable television company shall design, construct, operate and maintain its lines and equipment in conformance with the applicable provisions of the most recent edition of the Standard.

**3. Review of standards by commission.** Whenever a new or revised edition of the Standard is published, a transmission and distribution utility, ~~telephone utility~~ entity authorized under section 2301 to construct lines or cable television company may request the commission to hold a hearing on whether the new or revised Standard should be adopted.

A. If a hearing is requested within 120 days of the publication of the new or revised Standard, the commission shall hold a hearing and shall either adopt the new or revised Standard or, pursuant to subsection 4, amend or reject the new or revised Standard. If a hearing is requested and held under this paragraph, the new or revised Standard does not go into effect in any form except as expressly provided by the commission in its order.

B. If a hearing is not requested within 120 days of the publication of the new or revised Standard, the commission is deemed to have adopted the new or revised Standard effective on the 180th day after publication. Existing facilities that meet the requirements of the previously applicable Standard but which do not meet the requirements of the new or revised Standard may remain in noncompliance only if grandfathered under the new edition.

**4. Modifications, deletions and waivers to Standard.** The commission may, at its discretion and after appropriate hearing, modify, delete or waive individual requirements of the Standard. The commission may make a modification or deletion or grant a waiver of a national standard of practice contained in the Standard only if it finds one of the following:

A. Other measures achieving equivalent levels of safety will be substituted for the modified, deleted or waived national standard; or

B. The national standard is not applicable or is unduly burdensome for the level of safety achieved under local conditions.

Modifications, deletions or waivers of individual requirements of the Standard remain in force until the next edition of the Standard is adopted by the commission pursuant to subsection 3 or the modification, deletion or waiver is repealed by the commission, whichever occurs first.

Pursuant to subsection 3, paragraph A, a transmission and distribution utility, ~~telephone utility~~ entity authorized under section 2301 to construct lines or cable television company may petition the commission to continue approved modifications, deletions or waivers under a new or revised Standard. Unless the commission reaffirms a modification, deletion or waiver in its order adopting a new or revised Standard, a modification, deletion or waiver is deemed repealed on adoption of the new or revised Standard.

**5. Additional safety measures.** The commission may, at its discretion and after appropriate hearing, require safety measures in addition to those required by the Standard. An additional requirement remains in force for 10 years from its effective date unless the commission:

- A. Repeals the requirement; or
- B. Reaffirms the requirement by order. Each reaffirmation must occur within 10 years of the original effective date of the requirement or within 10 years of the last affirmation.

**Sec. B-8. 35-A MRSA §2307**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**§2307. Public utilities and telephone providers may lay wires, pipes and cables under streets subject to municipal permit**

Public utilities and entities authorized under section 2301 to construct lines may, in any municipality, place their pipes and appurtenances, wires and cables and all conduits and other structures for conducting and maintaining the pipes, wires and cables under the surface of those streets and highways in which the utilities or entities are authorized to obtain locations for their pipes and appurtenances, poles and wires, subject to the written permit of the licensing authority, as defined in section 2502 and subject to such rules as to location and construction as the municipal officers or the Department of Transportation may designate in their permit. A permit must be obtained under sections 2501 to 2508. Permits to open streets and highways for the purpose of relaying or repairing the pipes and appurtenances, wires, cables, conduits and other structures may be granted without notice.

**Sec. B-9. 35-A MRSA §2308**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**§2308. Protection of utility facilities upon discontinuance of public ways**

In proceedings for the discontinuance of public ways, public ways may be discontinued in whole or in part. The discontinuance of a town way ~~shall~~ must be pursuant to Title 23, section 3026. Unless an order discontinuing a public way specifically provides otherwise, the public easement provided for in Title 23, section 3026, includes an easement for public utility facilities and for the permitted facilities of entities authorized under section 2301 to construct lines. A utility or entity may continue to maintain, repair and replace its installations within the limits of the way or may construct and maintain new facilities within the limits of the discontinued way, if it is used for travel by motor vehicles, in order to provide utility or telecommunications service, upon compliance with the provisions of sections 2503, 2505, 2506, 2507 and 2508.

**Sec. B-10. 35-A MRSA §2310, sub-§1**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**1. Trespass.** A person commits trespass on a utility pole if, without the prior consent of the ~~utility owning~~ owner of the pole, ~~he~~ that person places any object or makes any attachment on any utility pole, whether or not it is within the limits of a public way.

**Sec. B-11. 35-A MRSA §2515, first ¶**, as amended by PL 1999, c. 398, Pt. A, §37 and affected by §§104 and 105, is further amended to read:

Every corporation organized under section 2101 and former section 2109 and every entity authorized under section 2301 to construct lines is liable in all cases to repay a municipality all sums of money that the municipality is obliged to pay on a judgment recovered against it for damages caused by an obstruction, digging up or displacement of a way or street by the corporation or entity, together with attorney's fees and expenses necessarily incurred in defending the municipality in the actions. The corporation ~~shall~~ or entity must:

**Sec. B-12. 35-A MRSA §2522**, as amended by PL 1999, c. 398, Pt. A, §39 and affected by §§104 and 105, is further amended to read:

**§2522. Maintenance of utility facilities**

Notwithstanding any other provision of law, a transmission and distribution utility or ~~telephone utility~~ entity authorized under section 2301 to construct lines may trim, cut or remove by cutting trees located within the public right-of-way of a public way and may trim or cut portions of trees encroaching upon the public right-of-way when necessary to ensure safe and reliable service if:

**1. Notice to applicable licensing authority.** Notice is provided by the utility or entity to the applicable

licensing authority, as defined in section 2502, at least 30 days before the trimming, cutting or removal of trees;

**2. Consultation with applicable licensing authority.** Upon request of the applicable licensing authority, the utility or entity consults with the applicable licensing authority before the trimming, cutting or removal of trees. Notice must be sent to each municipality in which trimming, cutting or removal of trees is to be conducted and the utility or entity shall consult with the applicable municipal licensing authority or, if none, the municipal officers before commencing operations. The municipal licensing authority or, if none, the municipal officers may elect to hold a public hearing on the utility's or entity's proposal and, if so, the utility or entity may not commence operations until after the public hearing has been held;

**3. Public notice.** Public notice is placed in at least 2 newspapers with circulation in the area where trimming, cutting or removal of trees is scheduled to occur at least 30 days before the trimming, cutting or removal of those trees. The notice must state that customers may request to be placed on the list, required under subsection 4, of persons who have requested to be personally consulted before the trimming, cutting or removal of trees;

**4. Customer notice list.** Before the trimming, cutting or removal of trees, the utility or entity confers with any person who requests personal consultation concerning the trimming, cutting or removal of trees on property in which the person has a legal interest. The utility or entity shall keep a list of persons who have requested personal consultation under this subsection. The utility or entity shall notify annually, in the form of a bill insert, all of the utility's or entity's customers of the opportunity to be on the list required under this subsection; and

**5. Shade and ornamental trees.** Before removing a shade or ornamental tree, the utility or entity consults with the owner of the land upon which the tree is located. For purposes of this subsection, "owner" includes a person who owns the underlying fee interest in land encumbered with a public easement.

This section does not apply to trimming, cutting or removal of trees undertaken in emergency situations.

**Sec. B-13. 35-A MRSA §7104, sub-§2,** as enacted by PL 1997, c. 692, §1, is amended to read:

**2. General availability.** The commission shall seek to ensure that ~~similar telecommunication services~~ are provider of last resort service is available to consumers throughout all areas of the State at reasonably comparable rates.

**Sec. B-14. 35-A MRSA §7104, sub-§3,** as amended by PL 1999, c. 60, §1, is further amended to read:

**3. Authority.** The commission shall adopt rules to implement this section and may require ~~providers of intrastate telecommunications services~~ voice network service providers and providers of radio paging service to contribute to a state universal service fund to support programs consistent with the goals of applicable provisions of this Title and the federal Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56. Prior to requiring that ~~providers of intrastate telecommunications services~~ voice network service providers and providers of radio paging service contribute to a state universal service fund, the commission shall assess the telecommunications needs of the State's consumers and establish the level of support required to meet those needs. If the commission establishes a state universal service fund pursuant to this section, the commission shall contract with an appropriate independent fiscal agent that is not a state entity to serve as administrator of the state universal service fund. Funds contributed to a state universal service fund are not state funds. Rules and any state universal service fund requirements established by the commission pursuant to this section must:

A. Be reasonably designed to maximize federal assistance available to the State for universal service purposes;

B. Meet the State's obligations under the federal Telecommunications Act of 1996, Public Law ~~104~~ 104-104, 110 Stat. 56;

C. Be consistent with the goals of the federal Telecommunications Act of 1996, Public Law ~~104~~ 104-104, 110 Stat. 56;

D. Ensure that any requirements regarding contributions to a state universal service fund be non-discriminatory and competitively neutral; and

~~E. Require explicit identification on customer bills of contributions to any state universal service fund established pursuant to this section; and~~

~~F. Allow consideration in appropriate rate-making proceedings of contributions to any state universal service fund established pursuant to this section.~~

G. Require, if a voice network service provider recovers its contributions under this section by means of a charge placed on a bill issued to a customer, explicit identification on that bill of any charge imposed under this section.

For purposes of this ~~subsection~~ section, "providers of intrastate telecommunications services" includes providers of radio paging service and mobile telecommunications services. "voice network service provider" means a voice service provider that offers its subscri-

ers the means to initiate or receive voice communications using the public switched telephone network. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A 2-A~~.

**Sec. B-15. 35-A MRSA §7104, sub-§4**, as enacted by PL 1997, c. 692, §1, is repealed.

**Sec. B-16. 35-A MRSA §7104, sub-§7, ¶A**, as enacted by PL 2005, c. 305, §2, is amended to read:

A. In establishing the total level of support for the state universal service fund, the commission shall include funding levels for telecommunications relay services as recommended by the Telecommunications Relay Services Advisory Council, as established in section 8704, unless the commission determines, upon its own motion or upon the request of a ~~provider of intrastate telecommunications services~~ voice network service provider, that the recommended funding levels may be unreasonable. If the commission determines that the funding levels may be unreasonable, the commission shall open a proceeding to determine a reasonable funding level for telecommunications relay services, including related outreach programs. Upon the conclusion of the proceeding, the commission shall establish funding support for telecommunications relay services, including related outreach programs, that it has found to be reasonable within the state universal service fund. The commission shall require contributions to the state universal service fund on a quarterly basis to meet the established funding support levels.

**Sec. B-17. 35-A MRSA §7104, sub-§8** is enacted to read:

**8. Maximization of support.** The commission shall pursue all activities necessary to maximize the amount of federal support received by voice service providers offering voice and broadband service in the State.

**Sec. B-18. 35-A MRSA §7104-B, sub-§1, ¶C**, as enacted by PL 1999, c. 409, §2, is repealed.

**Sec. B-19. 35-A MRSA §7104-B, sub-§1, ¶D** is enacted to read:

D. "Voice network service provider" means a voice service provider that offers its subscribers the means to initiate or receive voice communications using the public switched telephone network.

**Sec. B-20. 35-A MRSA §7104-B, sub-§2**, as amended by PL 2001, c. 522, §1, is further amended to read:

**2. Authority.** Pursuant to the authority granted in section 7104 and in order to carry out the policy goals established by section 7101, subsections 1, 2 and

4, the commission shall establish a telecommunications education access fund, referred to in this section as the "fund," and require all ~~telecommunications carriers offering telecommunications services~~ voice network service providers providing service in the State and any other entities identified by the commission pursuant to subsection 8 to contribute to the fund. The fund must be available, with any accumulated interest, to qualified libraries, qualified schools and the Raymond H. Fogler Library at the University of Maine to assist in paying the costs of acquiring and using advanced telecommunications technologies.

**Sec. B-21. 35-A MRSA §7104-B, sub-§3, ¶A**, as amended by PL 2005, c. 251, §1, is further amended to read:

A. Limit the amount collected to no more than 0.7% of retail charges for ~~telecommunications~~ 2-way voice communications services as determined by the commission, excluding interstate tolls or interstate private line services;

**Sec. B-22. 35-A MRSA §7104-B, sub-§3, ¶C and D**, as enacted by PL 1999, c. 409, §2, are amended to read:

C. Integrate the collection of the charge with any state universal service fund developed by the commission; and

D. Require, if a voice network service provider recovers its contributions under this section by means of a charge placed on a bill issued to a customer, explicit identification on customer bills of any charge imposed under this section; ~~and~~

**Sec. B-23. 35-A MRSA §7104-B, sub-§3, ¶E**, as enacted by PL 1999, c. 409, §2, is repealed.

**Sec. B-24. 35-A MRSA §7104-B, sub-§8**, as enacted by PL 1999, c. 409, §2, is repealed.

**Sec. B-25. 35-A MRSA §7105, sub-§§1 and 2**, as enacted by PL 1991, c. 654, §4 and affected by §5, are amended to read:

**1. Per-call blocking.** At least 2 months prior to initiating any caller-ID service, and throughout the period that caller-ID service is offered to subscribers in this State, telephone utilities must advertise and immediately upon initiating such service must offer to all subscribers free per-call blocking. ~~The commission shall review the form and content of advertising required under this section.~~

**2. Per-line blocking.** ~~In any order in which the commission approves the offering of caller ID in this State, the commission shall require~~ A telephone utility must provide per-line blocking to be provided to individuals, agencies and groups that submit a written request to the telephone utility asserting a specific need for per-line blocking for reasons of health and safety. Telephone utilities may not charge a subscriber a fee

for the first per-line blocking or unblocking of the subscriber's line. Except as otherwise authorized by law or to confirm that a subscriber has made a valid request, telephone utilities may not disclose information concerning the request for per-line blocking submitted by an individual, agency or group.

**Sec. B-26. 35-A MRSA §7106**, as amended by PL 2007, c. 638, §§2 and 3, is further amended to read:

**§7106. Unauthorized change of carrier**

**1. Unauthorized change of carrier.** This subsection governs the initiation of a change in a customer's local or intrastate interexchange carrier that is not authorized by that consumer.

A. Notwithstanding Title 32, chapter 69, subchapter 5 or Title 32, section 14716, and except as otherwise provided by the commission by rule adopted pursuant to subsection 3, a local or intrastate interexchange carrier may not initiate the change of a customer's local or intrastate carrier unless the change is expressly authorized by the customer as verified by one of the following methods:

- (1) Written or electronically signed authorization from the customer;
- (2) Toll-free electronic authorization placed from the telephone number that is the subject of the change order; or
- (3) Oral authorization of the customer obtained by an independent 3rd party.

B. When a customer's service is changed to a new local or intrastate interexchange carrier, the new local or intrastate interexchange carrier shall maintain for 24 months a record of nonpublic customer-specific information that establishes that the customer authorized the change.

D. A local or intrastate interexchange carrier that has initiated an unauthorized customer change shall:

- (1) Pay all usual and customary charges associated with returning the customer to the customer's original local or intrastate interexchange carrier;
- (2) Return to the customer any amount paid to that carrier by the customer or on the customer's behalf; and
- (3) Pay any access charges and related charges to access providers or to an underlying carrier when applicable; and
- (4) ~~Upon request, provide all billing records to the original local or intrastate interexchange carrier from which the customer was changed to enable the original local or intra-~~

~~state interexchange carrier to comply with this section and any commission rules adopted under this section.~~

~~E. Except as otherwise provided by the commission by rule in accordance with subsection 3, a customer subjected to an unauthorized change of local or intrastate interexchange carrier is responsible for charges of the authorized carrier for the customer's usage during the period the customer was served by the unauthorized carrier unless:~~

- (1) ~~The customer has paid the unauthorized carrier for the usage; and~~
- (2) ~~The amount paid by the customer has not been returned by the unauthorized carrier to the customer in accordance with paragraph D, subparagraph (2).~~

~~If the unauthorized carrier has not returned to the customer the amount paid by the customer to the unauthorized carrier in accordance with paragraph D, subparagraph (2), the unauthorized carrier shall pay to the authorized carrier the charges of the authorized carrier for the customer's usage during the period the customer was served by the unauthorized carrier.~~

**2. Penalty.** A local or intrastate interexchange carrier that violates this section is subject to penalty in accordance with this subsection.

A. The commission may impose an administrative penalty against any person who violates this section or any rule or order adopted pursuant to this section. In determining whether to impose a penalty, the commission may consider whether the violation was intentional. The penalty for a violation may be in an amount not to exceed \$5,000 for each day the violation continues, up to a maximum of \$40,000 for a first offense and a maximum of \$110,000 for subsequent offenses. The amount of the penalty must be based on:

- (1) The severity of the violation, including the intent of the violator, the nature, circumstances, extent and gravity of any prohibited acts;
- (2) The history of previous violations;
- (3) The amount necessary to deter future violations;
- (4) Good faith attempts to comply after notification of a violation; and
- (5) Such other matters as justice requires.

~~B. If the commission finds that a local or intrastate interexchange carrier has repeatedly violated this section or rules adopted under this section, the commission shall order the utility to take corrective action as necessary. In addition, the commis-~~

tion, if consistent with the public interest, may suspend, restrict or revoke the registration or certificate of the local or intrastate interexchange carrier, so as to deny the local or intrastate interexchange carrier the right to provide service in this State.

D. The commission may order a telephone utility to withhold funds collected on behalf of a carrier that is subject to an administrative penalty proceeding conducted pursuant to this section if it finds that it is more likely than not that penalties will be imposed or customer refunds will be ordered that are equal to or greater than the amount ordered withheld. The commission shall provide the carrier notice and an opportunity to be heard prior to ordering funds to be withheld. If the commission finds that there is a clear danger that, if notified in advance, the carrier will conceal or otherwise make funds unavailable to satisfy penalties or customer refunds prior to providing notice and an opportunity to be heard, it may issue an order to the public utility to withhold the funds without providing notice or an opportunity to be heard. To issue such an order, the commission must also make the first finding required by this paragraph. The commission shall, without delay, provide a copy of the order to the carrier along with written notice that the carrier, on request, will be provided with an opportunity to contest the finding that it is more likely than not that penalties will be imposed or customer refunds will be ordered that are equal to or greater than the amount ordered withheld.

**3. Rules.** The commission shall adopt nondiscriminatory and competitively neutral rules to further implement this section.

~~A. Except as otherwise provided in this subsection, rules adopted by the commission under this subsection, including rules regarding customer verification of a change of carrier, must be consistent with the rules adopted by the Federal Communications Commission governing the initiation of a change of a customer's interstate carrier.~~

~~B. The commission, in adopting rules governing customer verification of a change of carrier, shall consider whether customer verification is necessary in the case of customer initiated calls.~~

~~C. The commission shall adopt by rule a definition of those actions that constitute initiation of a change of carrier under this section and a definition of actions that do not constitute the initiation of a change of carrier. The commission shall consider whether actions not constituting the initiation of a change of a customer's carrier include actions of a local exchange carrier to change a customer's carrier:~~

~~(1) Undertaken at the direction of a carrier to which the customer's service is changed or with the oral or written authorization of the customer; and~~

~~(2) That do not result in the customer being changed to the service of the carrier undertaking the actions or to an affiliate of the carrier undertaking the actions.~~

~~D. Notwithstanding subsection 1, paragraph E, if the Federal Communications Commission provides by rule that customers are not responsible for charges of an authorized interstate carrier for the customer's usage during the period the customer was served by an unauthorized interstate carrier, the commission by rule may provide that a customer is not responsible for charges of an authorized local or intrastate carrier for the customer's usage during the period the customer was served by an unauthorized local or intrastate carrier.~~

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter H-A 2-A.

**4. Enforcement.** The commission through its own counsel or through the Attorney General may apply to the Superior Court of any county of the State to enforce any lawful order made or action taken by the commission pursuant to this section. The court may issue such orders, preliminary or final, as it considers proper under the facts established before the court.

**5. Notice to the Attorney General.** If the commission has reason to believe that any carrier has violated any provision of the law for which criminal prosecution is provided and would be in order or any law regarding fraud or consumer protection, the Commission shall notify the Attorney General. The Attorney General shall promptly institute any actions or proceedings the Attorney General considers appropriate.

**6. Customer education.** The Public Advocate shall periodically inform telephone customers in the State of the protections and rights provided by this section.

**Sec. B-27. 35-A MRSA §7107, sub-§6,** as corrected by RR 2003, c. 2, §113, is amended to read:

**6. Rulemaking.** The commission shall adopt rules to implement this section. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. ~~Rules adopted by the commission must at least:~~

~~A. Establish clear standards for interpreting and applying the state of mind standard applicable to billing agents who bill on behalf of service pro-~~

~~viders not properly registered with the commission;~~

~~B. Define types of evidence that constitute sufficient evidence of customer authorization in a manner that imposes the least economic and technical burdens on customers and service providers; and~~

~~C. With regard to direct dialed telecommunications services, provide that evidence that a call was dialed from the number that is the subject of the charge is sufficient evidence of authorization for the charge for that call.~~

~~Notwithstanding Title 32, chapter 69, subchapter 5 or Title 32, section 14716, subsection 4, rules adopted by the commission pursuant to paragraph B may define "sufficient evidence of customer authorization" to include oral authorization obtained by an independent 3rd party. The commission may not adopt any rule that requires any 3rd-party verification of customer authorization of the provision of any service or product by a service provider that is an affiliate of the billing agent, as defined by the commission by rule.~~

**Sec. B-28. 35-A MRSA §7902**, as amended by PL 2009, c. 612, §9, is further amended to read:

**§7902. Lines along highways and across waters**

Every ~~telephone utility entity authorized under section 2301 to construct lines~~ or person transmitting television signals by wire may, except as limited, construct, maintain and operate its lines upon and along the routes and between the points stated in its certificate of incorporation; and may, subject to the conditions and under the restrictions provided in this Title, construct its lines along, over, under and across any of the roads and streets and across or under any of the waters upon and along the routes, with all necessary erections and fixtures. The authority provided under this section applies to a dark fiber provider for the purposes of constructing and maintaining its federally supported dark fiber.

**Sec. B-29. 35-A MRSA §7903, first ¶**, as amended by PL 1995, c. 225, §14, is further amended to read:

Every telephone utility in the State may, upon such terms as may be agreed upon by the contracting parties, ~~subject to the control of the commission:~~

**Sec. B-30. 35-A MRSA §8302**, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

**§8302. Pole attachments**

~~Where~~ If a cable television system and a voice service provider, dark fiber provider, wholesale competitive local exchange carrier or public utility ~~have failed fail~~ to agree on the joint use of poles or other equipment or on the terms and conditions or compen-

sation for the use, the matter ~~shall be~~ is subject to section 711.

**PART C**

**Sec. C-1. 35-A MRSA §307-A**, as amended by PL 2001, c. 137, §3, is repealed.

**Sec. C-2. 35-A MRSA §507**, as enacted by PL 2001, c. 137, §4, is repealed.

**Sec. C-3. 35-A MRSA §703, sub-§3-A**, as repealed and replaced by PL 2009, c. 66, §1, is amended to read:

**3-A. Special contracts.** A public utility, subject to the commission's approval, may make a contract for a definite term for its product or service, but the published rates for the product or service may not be changed during the term of the contract without the commission's consent. ~~If the commission grants to a telephone utility or a group of telephone utilities an exemption pursuant to section 307 A from the requirement to file rate schedules or terms and conditions, that telephone utility or group of telephone utilities is exempt from the requirements for commission approval and consent under this subsection to the same extent as the exemption granted by the commission pursuant to section 307 A.~~

**Sec. C-4. 35-A MRSA c. 8**, as amended, is repealed.

**Sec. C-5. 35-A MRSA §1105**, as amended by PL 2001, c. 137, §6, is repealed.

**Sec. C-6. 35-A MRSA §7102, sub-§1-A, ¶B**, as enacted by PL 1991, c. 654, §2 and affected by §5, is amended to read:

B. An identification service provided in connection with ~~audiotext services, as defined in section 801,~~ toll-free, or "800" access code, telephone service or a similar telephone service;

**Sec. C-7. 35-A MRSA §7701**, as amended by PL 2003, c. 452, Pt. T, §1 and affected by Pt. X, §2, is repealed.

**Sec. C-8. 35-A MRSA §8301**, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

**Sec. C-9. 35-A MRSA §8501**, as enacted by PL 1987, c. 141, Pt. A, §6, is repealed.

**Sec. C-10. 35-A MRSA §8901**, as enacted by PL 1991, c. 342, §5, is repealed.

**Sec. C-11. 35-A MRSA §9106** is enacted to read:

**§9106. Application of chapter; repeal**

Notwithstanding any provision to the contrary in this chapter, the provisions of this chapter apply only to an alternative form of regulation approved by the

commission prior to January 1, 2012. This chapter is repealed August 1, 2013.

#### PART D

**Sec. D-1. 25 MRSA §2929, sub-§1, ¶B,** as enacted by PL 1997, c. 291, §3, is amended to read:

B. ~~Customer information, described in Title 35-A, section 7501, subsection 1, that is Names, addresses and telephone numbers that are omitted from a telephone utility directory list at the request of a customer;~~

**Sec. D-2. 35-A MRSA §101,** as amended by PL 1999, c. 398, Pt. A, §2 and affected by §§104 and 105, is further amended to read:

##### §101. Statement of purpose

The purpose of this Title is to ensure that there is a regulatory system for public utilities in the State and for other entities subject to this Title that is consistent with the public interest and with other requirements of law and to provide for reasonable licensing requirements for competitive electricity providers. The basic purpose of this regulatory system as it applies to public utilities subject to service regulation under this Title is to ensure safe, reasonable and adequate service and to ensure that the rates of public utilities subject to rate regulation are just and reasonable to customers and public utilities.

**Sec. D-3. 35-A MRSA §103, sub-§2, ¶A,** as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

A. All public utilities and certain other entities as specified in this Title are subject to the jurisdiction, control and regulation of the commission and to applicable provisions of this Title.

**Sec. D-4. 35-A MRSA §120, sub-§5,** as amended by PL 2009, c. 122, §9, is further amended to read:

**5. Telephone exemptions.** The commission's activities undertaken pursuant to its authority to grant exemptions to telephone utilities providers of provider of last resort service from certain portions of this Title;

**Sec. D-5. Merger obligations unaffected.** Nothing in this Act is intended or may be interpreted to modify or affect any provision of or the rights and obligations of any entity under any order of the Public Utilities Commission that establishes, approves, modifies, amends or in any way relates to any condition or requirement imposed by the commission in connection with the merger of FairPoint Communications, Inc. and Verizon Communications Inc. and the transfer to FairPoint Communications, Inc. of facilities previously owned or operated by Verizon Communications Inc., including but not limited to orders entered in the following commission dockets: Docket No. 2005-155; Docket No. 2007-67; Docket No. 2008-108; Docket

No. 2010-76; Docket No. 2010-77; and Docket No. 2010-78.

**Sec. D-6. Entities approved to furnish service.** Nothing in this Act is intended or may be interpreted to remove or otherwise affect any approval granted by the Public Utilities Commission to any entity under the Maine Revised Statutes, Title 35-A, section 2102 prior to the effective date of this Act.

**Sec. D-7. Regulatory assessments and special funds.** The Public Utilities Commission shall examine whether it is appropriate to require any voice service providers that are not required to pay assessments under the Maine Revised Statutes, Title 35-A, sections 116, 7104 and 7104-B to pay such assessments and if so the reasons why they should be included and how they may appropriately and fairly be included. The commission shall submit a report of its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over utilities and technology matters by January 15, 2013. The joint standing committee may report out a bill related to the subject of the report to the First Regular Session of the 126th Legislature.

**Sec. D-8. Statutory revisions.** The Public Utilities Commission shall review the provisions of the Maine Revised Statutes, Title 35-A and the commission's implementing rules relating to or affecting telecommunications and shall determine what, if any, further changes to law are required to clarify or bring into effect the regulatory changes made by this Act. The commission shall specifically examine whether the expansion of the application of Title 35-A, section 711 creates any regulatory or other issues that should be addressed. The commission may submit a bill to the First Regular Session of the 126th Legislature proposing any recommended changes to law to clarify, adjust or bring into effect the regulatory changes made by this Act.

See title page for effective date.

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## CHAPTER 624

### H.P. 1389 - L.D. 1878

#### An Act To Allow Abatement of Property Taxes Due to Hardship

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

**Sec. 1. 36 MRSA §841, sub-§2,** as amended by PL 2005, c. 169, §1, is further amended to read:

**2. Hardship or poverty.** The municipal officers or the State Tax Assessor for the unorganized territory, within 3 years from commitment, may, on their own knowledge or on written application therefor, make

such abatements as they believe reasonable on the real and personal taxes on the primary residence of any person who, by reason of ~~infirmity~~ hardship or poverty, is in their judgment unable to contribute to the public charges. The municipal officers or the State Tax Assessor for the unorganized territory may extend the 3-year period within which they may make abatements under this subsection.

Municipal officers or the State Tax Assessor for the unorganized territory shall:

- A. Provide that any person indicating an inability to pay all or part of taxes that have been assessed because of poverty or ~~infirmity~~ hardship be informed of the right to make application under this subsection;
- B. Assist individuals in making application for abatement;
- C. Make available application forms for requesting an abatement based on poverty or ~~infirmity~~ hardship and provide that those forms contain notice that a written decision will be made within 30 days of the date of application;
- D. Provide that persons are given the opportunity to apply for an abatement during normal business hours;
- E. Provide that all applications, information submitted in support of the application, files and communications relating to an application for abatement and the determination on the application for abatement are confidential. Hearings and proceedings held pursuant to this subsection must be in executive session;
- F. Provide to any person applying for abatement under this subsection; notice in writing of their decision within 30 days of application; and
- G. Provide that any decision made under this subsection include the specific reason or reasons for the decision and inform the applicant of the right to appeal and the procedure for requesting an appeal.

**Sec. 2. 36 MRSA §943-A**, as amended by PL 2005, c. 169, §2, is further amended to read:

**§943-A. Application for abatement**

~~Beginning with taxes that are assessed after April 1, 2005, each~~ Each notice under sections 942 and 1281 that is sent by a municipality or the State Tax Assessor to a person on whose primary residence taxes have been assessed must contain a statement that that person may apply for an abatement of those taxes if the person cannot pay the taxes that have been assessed because of poverty or ~~infirmity~~ hardship.

See title page for effective date.

**CHAPTER 625**

**S.P. 653 - L.D. 1869**

**An Act To Establish the Dairy Improvement Fund**

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

**Whereas**, the Maine dairy industry may suffer irreparable injury if state support is not available 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. 7 MRSA §2910-B** is enacted to read:

**§2910-B. Dairy Improvement Fund**

The commissioner shall administer the Dairy Improvement Fund established under Title 10, section 1023-P in accordance with this section and Title 10, section 1023-P. All money received by the fund from any source, including revenue distributed under Title 8, section 1036, subsection 2-A, paragraph M, must be deposited with the Finance Authority of Maine and credited to the fund. Money credited to the fund must be used to provide loans to assist dairy farmers in making capital improvements to maintain and enhance the viability of their farms and to pay the administrative costs of processing loan applications and servicing and administering the fund and loans made from the fund. Repayment of these loans and interest on the loans must be credited to the fund to be available for the same purposes.

The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 7 MRSA §3153-D**, as amended by PL 2009, c. 467, §5, is further amended to read:

**§3153-D. Transfer of revenues**

On or before the 18th day of each month, the administrator of the Maine Milk Pool shall ~~certify the amounts~~ subtract the amount in the Maine Milk Pool. Other Special Revenue Funds account that is available for distribution for dairy stabilization support from the total amount to be distributed for the previous month pursuant to section 3153-B and certify this amount to the State Controller, who shall transfer the certified

monthly amount when certified from General Fund undedicated revenue to the Maine Milk Pool, Other Special Revenue Funds account.

**Sec. 3. 8 MRSA §1036, sub-§2-A, ¶¶J and K**, as enacted by IB 2009, c. 2, §45, are amended to read:

J. One percent of the net slot machine income must be forwarded directly to the county in which the casino is located to pay for mitigation of costs resulting from gaming operations; ~~and~~

K. One percent of the net slot machine income must be forwarded by the board to the Treasurer of State, who shall credit the money to the Maine Milk Pool, Other Special Revenue Funds account within the Department of Agriculture, Food and Rural Resources to help fund dairy farm stabilization pursuant to Title 7, ~~section~~ sections 3153-B and 3153-D. This paragraph is repealed July 1, 2013;

**Sec. 4. 8 MRSA §1036, sub-§2-A, ¶¶L and M** are enacted to read:

L. Beginning July 1, 2013, 1/2 of 1% of the net slot machine income must be forwarded by the board to the Treasurer of State, who shall credit the money to the Maine Milk Pool, Other Special Revenue Funds account within the Department of Agriculture, Food and Rural Resources to help fund dairy farm stabilization pursuant to Title 7, sections 3153-B and 3153-D; and

M. Beginning July 1, 2013, 1/2 of 1% of the net slot machine income must be forwarded by the board to the Treasurer of State, who shall credit the money to the Dairy Improvement Fund established under Title 10, section 1023-P.

**Sec. 5. 10 MRSA §1023-P** is enacted to read:

**§1023-P. Dairy Improvement Fund**

The Dairy Improvement Fund, referred to in this section as "the fund," is created. The fund must be deposited with and maintained by the authority. The Commissioner of Agriculture, Food and Rural Resources shall administer the fund in accordance with Title 7, section 2910-B and this section. All money received by the authority in accordance with Title 7, section 2910-B and Title 8, section 1036, subsection 2-A, paragraph M must be credited to the fund. Money credited to the fund must be used to provide loans to assist dairy farmers in making capital improvements to maintain and enhance the viability of their farms and to pay the administrative costs of processing loan applications and servicing and administering the fund and loans made from the fund.

Repayment of loans and interest on these loans must be credited to the fund and may be used for the

purposes stated in this section and Title 7, section 2910-B.

The authority may adopt rules necessary to implement this section. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

Effective April 12, 2012.

**CHAPTER 626**

**H.P. 1377 - L.D. 1859**

**An Act To Protect Firearm Ownership during Times of Emergency**

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

**Whereas**, the right to keep and bear firearms is provided for by the Second Amendment to the Constitution of the United States; and

**Whereas**, this legislation clarifies the authority of persons acting in an official capacity to restrict or seize firearms in times of emergency; and

**Whereas**, since it is unknown when a state of emergency may exist next, it is vital that this clarification be in place 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. 25 MRSA §2011, sub-§5** is enacted to read:

**5. Restrictions on firearms and ammunition prohibited during state of emergency.** The provisions of this subsection apply to restrictions on firearms and ammunition during a state of emergency, as declared by the Governor pursuant to Title 37-B, section 742, subsection 1.

A. During a state of emergency, notwithstanding any provision of law to the contrary, a person acting on behalf or under the authority of the State or a political subdivision of the State may not:

(1) Prohibit or restrict the otherwise lawful possession, use, carrying, transfer, transportation, storage or display of a firearm or ammunition. The provisions of this paragraph regarding the lawful transfer of a firearm or ammunition do not apply to the commercial sale of a firearm or ammunition if an authorized person has ordered an evacuation or general closure of businesses in the area of the business engaged in the sale of firearms or ammunition.

(2) Seize or confiscate, or authorize the seizure or confiscation of, an otherwise lawfully possessed firearm or ammunition unless the person acting on behalf of or under the authority of the State is:

(a) Acting in self-defense against an assault;

(b) Defending another person from an assault;

(c) Arresting a person in actual possession of a firearm or ammunition for a violation of law; or

(d) Seizing or confiscating the firearm or ammunition as evidence of a crime; or

(3) Require registration of a firearm or ammunition for which registration is not otherwise required by state law.

B. An individual aggrieved by a violation of this subsection may seek relief in an action at law or in equity for redress against any person who subjects that individual, or causes that individual to be subjected, to an action prohibited by this subsection.

C. In addition to any other remedy at law or in equity, an individual aggrieved by the seizure or confiscation of a firearm or ammunition in violation of this subsection may bring an action for the return of the firearm or ammunition in the Superior Court of the county in which that individual resides or in which the firearm or ammunition is located.

D. In an action or proceeding to enforce this subsection, the court shall award a prevailing plaintiff costs and reasonable attorney's fees.

**Sec. 2. 37-B MRSA §742, sub-§1, ¶C,** as amended by PL 2001, c. 353, §4, is further amended to read:

C. After the filing of the emergency proclamation and in addition to any other powers conferred by law, the Governor may:

(1) Suspend the enforcement of any statute prescribing the procedures for conduct of

state business, or the orders or rules of any state agency, if strict compliance with the provisions of the statute, order or rule would in any way prevent, hinder or delay necessary action in coping with the emergency;

(2) Utilize all available resources of the State Government and of each political subdivision of the State as reasonably necessary to cope with the disaster emergency;

(3) Transfer the direction, personnel or functions of state departments and agencies, or units thereof, for the purposes of performing or facilitating emergency services;

(4) Authorize the obtaining and acquisition of property, supplies and materials pursuant to section 821;

(5) Enlist the aid of any person to assist in the effort to control, put out or end the emergency or aid in the caring for the safety of persons;

(6) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State, if the Governor determines this action necessary for the preservation of life or other disaster mitigation, response or recovery;

(7) Prescribe routes, modes of transportation and destinations in connection with evacuations;

(8) Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein;

(9) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, ~~firearms~~, explosives and combustibles;

(10) Make provision for the availability and use of temporary emergency housing;

(11) Order the termination, temporary or permanent, of any process, operation, machine or device which may be causing or is understood to be the cause of the state of emergency for which this proclamation was made; and

(12) Take whatever action is necessary to abate, clean up or mitigate whatever danger may exist within the affected area.

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

Effective April 12, 2012.

**CHAPTER 627  
S.P. 655 - L.D. 1874**

**An Act To Rename the Maine  
Jobs Council as the State  
Workforce Investment Board  
and Make Changes to Its  
Structure**

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

**Sec. 1. 26 MRSA §2004-A, sub-§1**, as enacted by PL 2003, c. 114, §9, is amended to read:

**1. Review plans.** Review plans, policies and standards proposed by a local board, the ~~Maine Jobs Council~~ State Workforce Investment Board, the Governor or any other agency under the Workforce Investment Act before final approval by the responsible entity;

**Sec. 2. 26 MRSA §2004-A, sub-§3**, as enacted by PL 2003, c. 114, §9, is amended to read:

**3. Receive reports.** Receive reports prepared by the ~~Maine Jobs Council~~ State Workforce Investment Board, a local board, the Governor or any agency in connection with implementation of the Workforce Investment Act, including the report required by section 3101.

**Sec. 3. 26 MRSA §2006**, as amended by PL 2011, c. 491, §10, is further amended to read:

**§2006. Establishment of State Workforce Investment Board**

**1. Responsibilities.** The ~~Maine Jobs Council~~ State Workforce Investment Board, referred to in this section as "the board," is established to ensure that the State's workforce development system helps Maine people and businesses compete successfully in the global economy. Specific responsibilities include but are not limited to:

A. Performing all of the duties and responsibilities of the state board as defined in the Workforce Investment Act, 29 United States Code, Section 2801, including, but not limited to, the duties and responsibilities set forth in subsection 5-D;

B. Recommending to the Governor a state workforce development plan designed to maximize utilization and effectiveness of state workforce development services;

C. Monitoring agency and system-wide strategic goals based on the statewide workforce development policy and strategic plan and evaluating progress toward meeting those goals;

D. Providing recommendations to the Governor and the Legislature that would improve system effectiveness and reduce system fragmentation;

E. Creating greater coordination between economic development and human resource development and education programs;

F. Ensuring a balance between rural and urban workforce development;

G. Providing policy oversight and recommendations to ensure the effectiveness of vocational programs for people with disabilities in order to support efforts that reduce barriers to employment;

H. Providing policy oversight and recommendations to ensure that self-employment, microenterprise and small business are part of the overall workforce development strategy;

I. Providing policy recommendations to ensure the effectiveness of work-related programs and services for youth, including youth with disabilities; and

J. Providing policy recommendations to ensure the effectiveness of work-related programs and services for "at-risk" youth.

**2. Membership.** The ~~council~~ board consists of members appointed by the Governor.

B. Appointments must be consistent with the representation requirements of the Workforce Investment Act, including representatives from business and industry, organized labor, state agencies responsible for human resource programs and educational and community-based institutions.

The Governor shall ensure that the ~~council~~ board and its ~~technical support group~~ the Program Policy Committee under subsection 7 have sufficient expertise to effectively carry out the duties and functions of the ~~council~~ board.

**3. Terms of members.** One third of the initial appointees shall serve for a one-year term, 1/3 of the initial appointees shall serve for a 2-year term and 1/3 shall serve for a 3-year term. All subsequent appointees shall serve 3-year terms.

**4. Chair and vice-chair.** The Governor shall appoint a chair and vice-chair from the membership of the ~~council~~ board to serve for a one-year term. The Governor may reappoint members to serve as chair or vice-chair.

**5-A. Apprenticeship.** In addition to its other duties, the ~~council~~, through its ~~Standing Committee on Apprenticeship~~, shall perform the duties of the former ~~State Apprenticeship and Training Council~~.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings:

(1) "Apprentice" means a person at least 16 years of age who is employed under an apprenticeship agreement to work at and learn a specific occupation and is registered with the council.

(2) "Apprentice agreement" means a written agreement that is entered into by an apprentice or organization of employees with an employer or an association of employers and provides for the apprentice's participation in a definite sequence of job training and for such related and supplemental instruction as may be determined necessary for the apprentice to qualify as a journeyman in a particular occupation.

(3) "Committee" means the council's Standing Committee on Apprenticeship.

(4) "Journeyman upgrading" means continued related instruction advocated for by a sponsor, including joint apprenticeship and training committees or employers, for an individual who has fulfilled a bona fide apprenticeship as determined by the committee. Enrollment criteria are established by the committee.

(5) "Sponsor" means an employer or a potential employer.

B. The committee is composed of 12 voting members appointed by the Governor and made up as follows: 4 members must be representatives of employees and be bona fide members of a recognized major labor organization; 4 members must be representatives of employers and be bona fide employers or authorized representatives of bona fide employers; and 4 members must be representatives of the public, selected from neither industrial employers nor employees, nor may they be directly concerned with any particular industrial employer or employee. At least 2 members who are representatives of the public must represent the interests of women, minorities and recipients of aid to families with dependent children who are in registered apprenticeships. Each member holds office until a successor is appointed and qualified, and any vacancy must be filled by appointment for the unexpired portion of the term. The chair of the committee must be a member of the committee and is named by the members of the committee. The Commissioner of Labor or a designee, the Commissioner of Economic and Community Development or a designee, the Commissioner of Education or a designee, the chair of the council or a member designee and the

President of the Maine Community College System or a designee are nonvoting ex officio members of the committee.

C. The committee shall:

(1) Establish standards, through joint action of employers and employees, assist in the development of registered apprenticeship programs in conformity with this subsection and generally encourage and promote the establishment of registered apprenticeship programs;

(2) Register or terminate, or cancel the registration of, apprenticeship programs and apprenticeship agreements, including journeyman upgrading;

(3) Authorize and issue certificates of completion of apprenticeship to apprentices who have been certified by a joint apprenticeship committee or employer as having satisfactorily completed their training;

(4) Keep a record of registered programs and apprentice agreements, including the number of women and minority apprentices by occupation and the number of occupations that are nontraditional for women;

(5) Adopt rules necessary to carry out the intent and purpose of this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II A;

(6) Make an annual report by March 1st of each year to the Governor, the joint standing committee of the Legislature having jurisdiction over labor matters, the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the joint standing committee of the Legislature having jurisdiction over business and economic development matters. The report must include, for each business assisted under this subsection, the name and location of each business, the number of apprentices, the return on investment and, when applicable, the number of new jobs created;

(7) Ensure availability and oversee coordination of related and supplemental instruction for apprentices; and

(8) Develop a biennial plan in consultation with the Department of Labor and develop an evaluation tool and process that facilitates a review of the apprenticeship program outcomes based on the committee's biennial goals and objectives. As a result of this process, the committee may initiate programs that

~~promote apprenticeship and work force development.~~

~~D. Committee meetings are held quarterly and as often as is necessary in the opinion of a majority of the committee. The chair shall designate the time and place of the meetings and the staff shall notify all committee members at least one week in advance of each meeting. A majority of the membership of the committee constitutes a quorum, as long as each of the groups in paragraph B has at least one representative present.~~

~~E. Standards for apprentice agreements must contain the following:~~

~~(1) A statement of the occupation to be taught and the required hours for completion of apprenticeship;~~

~~(2) A statement of the major work processes in the occupation to be taught and the approximate amount of time to be spent at each process;~~

~~(3) A statement of educational subjects to be studied and mastered, including on the job training work experience. An agreement must state the number of hours required to complete an apprenticeship and indicate the approximate number of hours spent in each process and each training component;~~

~~(4) A statement that the apprentices may not be less than 16 years of age;~~

~~(5) A statement of the progressively increasing scale of wages to be paid the apprentice;~~

~~(6) A period of probation during which the committee shall terminate the apprentice agreement upon the written request of any party to the apprentice agreement. After the probationary period, the committee may terminate the registration of an apprentice upon agreement of the parties;~~

~~(7) A statement that, when differences arising out of the apprentice agreement can not be adjudged locally or in accordance with the occupation's established procedures, the services of the committee may be used for consultation regarding the settlement of the differences;~~

~~(8) A statement that if an employer is unable to fulfill its obligation under the apprentice agreement, the employer may transfer the obligation to another employer;~~

~~(9) A statement that there may be no discrimination based on sex, race, creed or color in employing apprentices; and~~

~~(10) Additional standards as may be prescribed in accordance with this subsection.~~

~~F. The committee may establish local, regional and state joint apprenticeship committees in any occupation or group of occupations, in cities, regions of the State or occupation areas whenever the apprentice training needs of the occupation or group of occupations justify the establishment. These local, regional or state joint apprenticeship committees are composed of an equal number of employer and employee representatives, selected by the respective local or state employer and employee organizations in the occupation or group of occupations, and any advisory members representing local boards or other agencies as may be advisable. Each local, regional or state joint apprenticeship committee must include an even number of voting members with expertise in issues related to women, minorities or recipients of aid to families with dependent children who are in apprenticeships, 1/2 to be chosen by the employer representatives and 1/2 to be chosen by the employee representatives. In an occupation or group of occupations in which there is no bona fide employer or employee organization, a joint apprenticeship committee may be composed of persons known to represent the interests of employers and of employees, or a state joint apprenticeship committee may be approved as the joint apprenticeship committee in that occupation or group of occupations. Subject to the review of the committee and in accordance with standards established by the committee, the joint apprenticeship committees may devise standards for apprenticeship agreements and give necessary aid to their respective occupations and localities. The activities of the joint apprenticeship committees must comply with all applicable affirmative action rules adopted by the committee.~~

~~G. This subsection, or any apprentice agreement approved under this subsection, does not invalidate an apprenticeship provision in a collective bargaining agreement between employers and employees that sets up higher apprenticeship standards. None of the terms or provisions of this subsection applies to any person, firm, corporation or craft unless the person, firm, corporation or craft voluntarily elects to be subject to the terms and provisions of this subsection.~~

~~H. In carrying out its duties on a state level, the committee shall employ personnel in the Department of Labor, Bureau of Employment Services.~~

~~(1) The Bureau of Employment Services must have a director of apprenticeship and training who supervises the execution of agreements and the maintenance of standards.~~

~~(2) The Bureau of Employment Services shall keep a record of apprentice agreements and programs and ensure that all aspects of related and supplemental instruction are delivered and coordinated in a timely manner.~~

~~(3) Apprenticeship field staff may be retained by agreements between the Bureau of Employment Services and its service provider network. Field staff are responsible for promoting apprenticeships to employers, writing apprenticeship programs and carrying out delegated council duties.~~

~~(4) The committee's budget request must be incorporated into the overall budget of the Department of Labor.~~

~~(5) The Commissioner of Labor is ultimately responsible for selecting and supervising all personnel employed by the committee, providing adequate staff support to the committee and disbursing funds according to committee policy.~~

~~I. The Maine Community College System remains the primary vendor for apprenticeship-related instruction according to a biennial articulation agreement with the Department of Labor.~~

~~(1) The committee shall cooperate with the Department of Education, local school authorities, such as adult education and career and technical education centers, and other groups in organizing and establishing related or supplemental instruction for apprentices employed under approved agreements.~~

~~(2) An educational institution or apprenticeship sponsor may provide related and supplemental instruction according to the policies established by the committee. Educational providers shall identify a contact person for the committee staff. As funds permit, the Department of Labor shall underwrite 50% of tuition costs for apprentices in good standing at public educational institutions and provide tuition assistance to sponsor groups in accordance with committee policies. To ensure that adequate funds are available for tuition, the committee shall provide the Commissioner of Labor with its biennial plan, including projected apprenticeship enrollments and a subsequent budget request.~~

~~(3) The committee shall assist the Department of Education, the State's community colleges, local school authorities, such as adult education and career and technical education centers, and other groups in developing training courses to establish preapprenticeship training programs if the community colleges, local schools and other groups wish to~~

~~do so. Successful completion of preapprenticeship training programs enables a participant to meet the qualifying standards of the apprenticeship for which the participant has expressed serious interest. All preapprenticeship training programs are subject to approval by the committee.~~

~~J. The committee shall cooperate with the Department of Labor and the Department of Economic and Community Development in matters relating to work force and economic development.~~

~~K. The committee shall cooperate and consult with the Department of Corrections to develop policies concerning issues of job safety for prisoners involved in prison industries programs, work release programs and job displacement created by those programs and to develop opportunities for jobs in the prison industries programs consistent with Title 34-A, section 1403, subsection 9.~~

~~L. The committee shall cooperate, consult and coordinate with groups that help people on welfare find jobs. The committee shall also cooperate with other relevant groups to identify obstacles that may prevent women and recipients of aid to families with dependent children from participating in registered apprenticeships, and the necessary measures to be taken to overcome them.~~

~~M. Committee field staff are responsible for identifying and contacting potential sponsors with whom apprenticeship programs may be developed. Staff may receive business referrals from a variety of sources, including, but not limited to, local work force development centers, business visitation programs, local chambers of commerce, the Department of Economic and Community Development and the Department of Labor's Employer Assistance Division. Staff and committee members may regularly conduct presentations to employer groups, schools and other interested parties and develop brochures, public service announcements and promotional videotapes for the purpose of promoting apprenticeship.~~

~~N. Committee staff may provide apprenticeship sponsors with technical assistance that encourages high quality job creation, reorganizes a workplace to help it remain competitive, upgrades worker skills by providing essential work competencies, occupational task analysis and instructor training and encourages affirmative action and recruitment of special populations.~~

~~O. All apprentice and training programs established under this subsection must conform to 29 Code of Federal Regulations, Parts 29 and 30, and any subsequent applicable provisions. The Fed-~~

~~eral Bureau of Apprenticeship and Training is available as a resource to the committee.~~

**5-B. Employment of people with disabilities.** In addition to its other duties, the ~~council board~~, through its Standing Committee on Employment of People with Disabilities, created pursuant to subsection 7, paragraph A, subparagraph (3) referred to in this subsection as ~~the~~ "the standing committee," shall perform the duties of the former Governor's Committee on Employment of People with Disabilities.

A. The standing committee shall:

- (1) Advise, consult and assist the executive and legislative branches of State Government on activities of State Government that affect the employment of disabled individuals. The standing committee is solely advisory in nature. The standing committee may advise regarding state and federal plans and proposed budgetary, legislative or policy actions affecting disabled individuals;
- (2) Serve as an advocate on behalf of disabled citizens promoting and assisting activities designed to further equal opportunity for people with disabilities;
- (3) Conduct educational programs considered necessary to promote public understanding of the employment-related needs and abilities of disabled citizens of this State;
- (4) Provide information, training and technical assistance to promote greater employer acceptance of disabled workers;
- (5) Advise and assist employers and other organizations interested in developing employment opportunities for disabled people; and
- (6) Work with state and local government officials, organizations representing persons with disabilities and the business community to inform the public of the benefits of making facilities and services accessible to and usable by individuals with disabilities; ~~monitor the enforcement of state and federal laws regarding accessibility; and advise and assist building owners by disseminating information about accessibility and by making technical assistance available when appropriate.~~

B. The standing committee shall administer in accordance with current fiscal and accounting regulations of the State, and in accordance with the philosophy, objectives and authority of this subsection, any funds appropriated for expenditure by the standing committee or any grants or gifts that may become available and are accepted and received by the standing committee.

C. The standing committee shall submit an annual report directly to the Governor and the Legislature not later than September 1st of each year concerning its work, recommendations and interest of the previous fiscal year and future plans. The standing committee shall make any interim reports it considers advisable.

D. The standing committee shall keep minutes of all meetings, including a list of people in attendance.

E. The standing committee may employ, subject to the Civil Service Law, the staff necessary to carry out its objectives. The standing committee may employ consultants and contract for projects it determines necessary. To the extent feasible and reasonable, the standing committee must be given the staff, facilities, equipment, supplies, information and other assistance required to carry out its activities.

F. The standing committee may make necessary rules, ~~not inconsistent~~ consistent with this subsection, for promoting its purposes.

G. The standing committee may receive and accept, from any source, allocations, appropriations, loans, grants and contributions of money or other things of value to be held, used or applied to carry out this subsection, subject to the conditions upon which the loans, grants and contributions may be made, including, but not limited to, appropriations, allocations, loans, grants or gifts from a private source, federal agency or governmental subdivision of the State or its agencies.

~~**5-C. Occupational information.** In addition to its other duties, the council shall perform the duties of the former Maine Occupational Information Coordinating Committee.~~

A. The council shall:

- (1) ~~Support the development, maintenance and operation of the Comprehensive Career, Occupational and Economic Data based System, established in section 1451, and foster communication and coordination of education, employment and training programs through the use of the system;~~
- (2) ~~Develop and implement an overall system for coordinating and delivering occupational and economic supply and demand information, using standardized techniques as feasible, to employment, training, career and technical education and vocational rehabilitation agencies; economic development agencies; private industry; and individuals;~~
- (3) ~~Facilitate the use of occupational and economic information in planning and allocating employment, training, career and tech-~~

~~nical education and vocational rehabilitation programs;~~

~~(4) Facilitate the use of career and occupational information in both school and non-school settings through promotion and support of career education programs and activities;~~

~~(5) Provide the Governor with the comprehensive occupational and economic information required to improve the coordination of employment, training, career and technical education and vocational rehabilitation programs to meet commonly defined needs; and~~

~~(6) Recommend to the Governor legislative and executive initiatives designed to increase the utility of the Comprehensive Career, Occupational and Economic Data-based System as the system relates to a more effective coordination of employment, training, career and technical education and vocational rehabilitation programs, especially as these programs support economic development initiatives as the system relates to industrial recruitment and expansion efforts, and as the system relates to the delivery of career information to those involved in the career decision-making process.~~

~~B. The Executive Director of the Bureau of Employment Services may appoint, subject to the Civil Service Law, personnel authorized by the council and necessary to carry out the duties in this subsection.~~

~~C. The council may accept gifts, grants or other money from any source and may enter into contracts, charge fees and make grants for services consistent with this subsection.~~

**5-D. Workforce investment.** In addition to its other duties, the council board shall perform the duties of the state board under the Workforce Investment Act, referred to in this subsection as "the Act."

A. The council board shall assist the Governor in:

(1) Developing and continuously improving a statewide system of activities funded under the Act or carried out through a one-stop delivery system described in Section 134(c) of the Act including review of local plans and development of linkages to ensure coordination and nonduplication among the programs and activities with required and optional partners described in Section 121(b) of the Act;

(2) Designating local areas as required in Section 116 of the Act;

(3) Developing allocation formulas for the distribution to local areas of funds for youth

activities and adult employment and training activities as allowed under Sections 133(b)(3)(B) and 128(b)(3)(B) of the Act;

(4) Developing and continuously improving comprehensive state performance measures including state-adjusted levels of performance to assess the effectiveness of the workforce investment activities of the State as required under Section 136(b) of the Act;

(5) Developing an application for an incentive grant under Section 503 of the Act;

(6) Preparing an annual report to the United States Secretary of Labor as described in Section 136(d) of the Act;

(7) ~~Commenting on~~ Evaluating measures taken pursuant to Section 113(b)(14) of the federal Carl D. Perkins Vocational and Applied Technology Education Act, 20 United States Code, Section 2323(b)(14); and

(8) Developing the statewide statistics system described in Section 15(e) of the federal Wagner-Peyser Act, 29 United States Code, Section 491-2(e).

B. The council board has the necessary authority to carry out the purposes of this section.

C. The commissioner may appoint employees necessary to carry out the council's board's responsibility under this subsection.

D. The commissioner may adopt routine technical rules, in accordance with Title 5, chapter 375, subchapter 2-A necessary to carry out the council's board's responsibility under this subsection.

**6. Powers.** The council shall have board has the necessary authority to carry out the purposes of this section.

**7. Committee structure.** The council board has the following committee structure.

A. The council shall create 3 6 standing committees ~~of up to 12 members. Each standing committee may include up to 8 noncouncil members appointed by the council chair and drawn from the same constituency groups as the council's membership.~~ The standing committees shall make recommendations to the full council board. The 3 6 standing committees are as follows:

(2) School-to-work;

(3) Employment of people with disabilities; ~~and~~

(4) Women's employment issues;

(5) Older workers;

(6) Veterans employment; and

(7) The Program Policy Committee.

B. ~~The council board~~ may also create additional committees to address specific problems and issues. ~~These committees may consist of up to 12 members and may include up to 8 noncouncil members appointed by the council chair and drawn from the same constituency groups as the council's membership.~~ These committees shall make recommendations to the full council board.

C. The Governor shall appoint members to a ~~technical support group~~ the Program Policy Committee, referred to in this paragraph as "the committee," to assist the council board in the performance of its duties and responsibilities. The Governor shall appoint persons to serve on the ~~technical support group committee~~ for 3-year terms. The services provided by the State's various workforce organizations must be fairly represented in the ~~technical support group committee~~ with consideration given to a balance between rural and urban interests. Organizations with representation on the ~~technical support group committee~~ may include, but are not limited to: organizations that conduct programs or activities as specified in Section 121(b) of the Workforce Investment Act.

- ~~(1) The local areas;~~
- ~~(2) Adult education;~~
- ~~(3) School to work;~~
- ~~(4) Providers that specialize in women's workforce issues;~~
- ~~(5) Rehabilitation providers;~~
- ~~(6) Welfare to work;~~
- ~~(7) The University of Maine System;~~
- ~~(8) The Maine Community College System;~~
- ~~(9) Career and technical education; and~~
- ~~(10) The Department of Economic and Community Development, the Department of Education, the Department of Health and Human Services, the Department of Labor and the State Planning Office.~~

**8. Meetings.** The council board shall meet at such times and such places as it considers necessary. The meetings must be publicly announced and open to the general public. A majority of members of the council board constitutes a quorum for the transaction of business.

**9. Administration.** The Department of Education and the Department of Labor shall jointly administer the council board. The Department of Labor is the fiscal agent for the council board. Pursuant to the Commissioner of Labor's authority under section

1401-B and to the Commissioner of Education's authority under Title 20-A, section 253, subsection 2, the Commissioner of Labor and the Commissioner of Education may designate employees they consider necessary to carry out the State's responsibility under this section.

The Commissioner of Education and the Commissioner of Labor are authorized to adopt joint rules as may be necessary to carry out the State's responsibility under this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

The council board shall establish bylaws for its governance. These bylaws are subject to the Governor's approval.

**10. Compensation.** Members of the council board receive no compensation for their services. Reimbursement of necessary expenditures incurred in the performance of their duties on the council board, which are allowed by state law, are administered by the Department of Labor from federal or state appropriations.

**Sec. 4. 26 MRSA §2033, sub-§4, ¶A,** as amended by PL 2007, c. 506, §2, is further amended to read:

A. The education or training provided through the program must be for employment in industries with significant demand for skilled labor that have been:

- (1) Identified by the Center for Workforce Research and Information as providing opportunity for employment in jobs with high compensation;
- (2) Recommended by the ~~Maine Jobs Council~~ State Workforce Investment Board; and
- (3) Approved by the Governor or the Governor's designee.

**Sec. 5. 35-A MRSA §10104, sub-§9,** as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

**9. Coordination with other entities.** Consistent with the requirements of this chapter and other applicable laws, the board shall coordinate with the activities and programs of state agencies and authorities that relate to the purposes of this chapter in order to align such activities and programs with the plans and programs of the trust. For purposes of this subsection, activities and programs of state agencies and authorities that relate to the purposes of this chapter include but are not limited to energy efficiency programs relating to state facilities administered by the Department of ~~Financial and Administrative~~ Administrative and Financial Services, Bureau of General Services, the adoption, amendment and maintenance of the Maine

Uniform Building and Energy Code by the Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A within the Department of Public Safety, energy efficiency or green energy workforce development activities of the Department of Labor or the ~~Maine Jobs Council~~ State Workforce Investment Board and energy efficiency and weatherization programs administrated by the Maine State Housing Authority.

See title page for effective date.

**CHAPTER 628**

**H.P. 1362 - L.D. 1841**

**An Act To Ensure Funding for the Victims' Compensation Fund**

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

**Sec. 1. 5 MRSA §3360-I, first ¶,** as amended by PL 1993, c. 570, §1, is further amended to read:

As part of the sentence or fine imposed, the court shall impose an assessment of \$25 on any person convicted of murder, a Class A crime, a Class B crime or a Class C crime and \$10 on any person convicted of a Class D crime or a Class E crime. Notwithstanding any other law, the court may not waive the imposition of the assessment required by this section. For purposes of collection and collection procedures, ~~these assessments are~~ this assessment is considered part of the fine. At the time of commitment, the court shall inform the Department of Corrections or the county sheriff of any unpaid balances on assessments owed by the offender to the Victims' Compensation Fund. All funds collected as a result of these assessments accrue to the Victims' Compensation Fund.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**ATTORNEY GENERAL, DEPARTMENT OF THE**

**Victims' Compensation Board 0711**

Initiative: Allocates funds to reflect an increase in revenue as a result of prohibiting a court to waive the Victims' Compensation Fund assessment.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$28,934

OTHER SPECIAL	\$0	\$28,934
REVENUE FUNDS TOTAL		

See title page for effective date.

**CHAPTER 629**

**S.P. 667 - L.D. 1889**

**An Act To Amend the Liquor Laws of the State**

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

**Sec. 1. 28-A MRSA §2, sub-§11-A,** as enacted by PL 1993, c. 730, §8, is repealed.

**Sec. 2. 28-A MRSA §2, sub-§15, ¶I,** as enacted by PL 1987, c. 45, Pt. A, §4, is amended to read:

I. "Incorporated civic organization" means any charitable or ~~nonprofit~~ civic organization incorporated as a corporation without stock under Title 13, chapter 81 ~~or Title 13-B.~~

**Sec. 3. 28-A MRSA §2, sub-§15, ¶M,** as amended by PL 1995, c. 558, §2, is further amended to read:

M. "Outdoor stadium" means any commercially operated outdoor facility with ~~5,000~~ 3,000 or more fixed seats designed or used for the playing of any sport or event, ~~or any outdoor facility with 3,000 or more seats at times when that facility is being used for the playing of professional baseball,~~ that is open to the general public, charges a fee and has adequate facilities for the sale and consumption of wine and malt liquor.

**Sec. 4. 28-A MRSA §2, sub-§16-A,** as amended by PL 2005, c. 539, §3, is further amended to read:

**16-A. Low-alcohol spirits product.** "Low-alcohol spirits product" means a product containing spirits that has an alcohol content of ~~6%~~ 8% or less by volume.

**Sec. 5. 28-A MRSA §2, sub-§29-B** is enacted to read:

**29-B. Small winery.** "Small winery" means a facility that is fermenting, aging and bottling its own wine, not to exceed 50,000 gallons per year.

**Sec. 6. 28-A MRSA c. 9,** as amended, is repealed.

**Sec. 7. 28-A MRSA c. 17**, as amended, is repealed.

**Sec. 8. 28-A MRSA §454**, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed.

**Sec. 9. 28-A MRSA §707, sub-§3**, as amended by PL 2005, c. 390, §2, is further amended to read:

**3. Retail licensee; interest in wholesaler or certificate of approval.** Except as authorized in section ~~1012, subsection 5~~ 1355-A, a retail licensee may not have any financial interest, direct or indirect, in any:

- A. Maine manufacturer's or wholesaler's license; or
- B. Certificate of approval issued to an out-of-state manufacturer or foreign wholesaler of malt liquor or wine.

**Sec. 10. 28-A MRSA §707, sub-§4**, as amended by PL 2005, c. 390, §3, is further amended to read:

**4. Certificate of approval holder or Maine manufacturer; interest in wholesaler or retail license.** Except as authorized in section ~~1012, subsection 5~~ 1355-A, a certificate of approval holder or in-state manufacturer may not have any financial interest, direct or indirect, in any:

- A. Maine wholesale license; or
- B. Maine retail license.

**Sec. 11. 28-A MRSA §708-B**, as enacted by PL 1997, c. 483, §1, is repealed and the following enacted in its place:

**§708-B. Donations to public broadcasting stations and incorporated civic organizations**

**1. Donations for auctions.** Notwithstanding any other provisions of law, a person licensed in the State as a brewery, small brewery, winery, small winery, distillery, small distillery or wholesaler may donate a gift certificate to purchase its product or donate its product to a public broadcasting station or an incorporated civic organization licensed under section 1071 for the purpose of an auction. A certificate of approval holder may donate a gift certificate to purchase its product or donate its product to a public broadcasting station or an incorporated civic organization licensed under section 1071 for the purpose of an auction as long as the product donated is provided by a wholesaler who is reimbursed for the product by the certificate of approval holder for the cost of the donated product. Spirits donated by a distiller under this subsection must have been sold to the State for listing, pricing and distribution as required by this Title. Any donation is subject to the following.

A. A brewery, winery, distillery or wholesaler shall maintain a record of each donation, includ-

ing the value of each donation and the date on which each donation was made.

B. A public broadcasting station or licensed incorporated civic organization shall ensure that the recipient of the donated item is 21 years of age or older.

**2. Donations for on-premises events.** Notwithstanding any other provisions of law, a person licensed in the State as a brewery, winery, distillery or wholesaler may donate its product to an incorporated civic organization that has been issued a license for an on-premises event open to the public. A certificate of approval holder may donate its product to an incorporated civic organization that has been issued a license for an on-premises event open to the public as long as the product donated is provided by a wholesaler who is reimbursed for the product by the certificate of approval holder for the cost of the donated product. Spirits donated by a distiller under this subsection must have been sold to the State for listing, pricing and distribution as required by this Title. A brewery, winery, distillery or wholesaler shall maintain a record of each donation, including the value of each donation and the date on which each donation was made.

**Sec. 12. 28-A MRSA §709, sub-§2, ¶E**, as amended by PL 2011, c. 259, §1, is further amended to read:

E. Those licensed under sections 1052-B; or 1052-C, 1205, 1207 and 1402 offering free samples or tastings;

**Sec. 13. 28-A MRSA §709, sub-§2, ¶H**, as amended by PL 2005, c. 319, §1, is further amended to read:

H. Licensees whose licensed premises include more than one room charging different prices for the same drink served in the different rooms; or

**Sec. 14. 28-A MRSA §709, sub-§2, ¶I**, as enacted by PL 2005, c. 319, §2, is repealed and the following enacted in its place:

I. Conducting taste testing under section 460, 1051, 1205, 1207 or 1355-A;

**Sec. 15. 28-A MRSA §709, sub-§2, ¶¶J and K** are enacted to read:

J. Providing samples authorized under section 1355-A, 1402, 1402-A or 1504; or

K. Donations authorized under section 708-B.

**Sec. 16. 28-A MRSA §1012, sub-§5**, as enacted by PL 2005, c. 390, §4, is repealed.

**Sec. 17. 28-A MRSA §1052-B, sub-§1**, as amended by PL 2003, c. 91, §1, is further amended to read:

**1. Special taste-testing festival license.** Malt liquor manufacturers licensed under section 1401 and manufacturers of malt liquor or wine licensed as small breweries or ~~farm~~ small wineries under section ~~1355~~ 1355-A may apply jointly for an additional license to participate in a special taste-testing festival under this section. The special taste-testing festival license is valid for no more than 3 consecutive days and may be issued once annually.

**Sec. 18. 28-A MRSA §1052-C, sub-§1,** as enacted by PL 2011, c. 259, §2, is amended to read:

**1. Special food and beverage industry taste-testing event license.** Malt liquor and wine wholesalers licensed under section 1401 and manufacturers licensed under section ~~1355~~ 1355-A may apply jointly for a special food and beverage industry taste-testing event license to participate in a special food and beverage industry taste-testing event under this section. This license authorizes taste testing of malt liquor, wine, fortified wine and spirits at an event designed to promote the food and beverage or hospitality industry where more than 50% of the participants in the event represent an industry or business that holds a license to manufacture, sell or serve alcoholic beverages.

**Sec. 19. 28-A MRSA §1071, sub-§6,** as enacted by PL 2009, c. 102, §1, is amended to read:

**6. Server requirements.** An incorporated civic organization issued a license in accordance with this section shall provide the names of those who will be serving alcoholic beverages at the public event or gathering being sponsored. In the event that a server from that list is unavailable, a licensed manufacturer, distributor, wholesaler, ~~farm~~ small winery or small brewery that has provided alcoholic beverages to be served at the event may provide serving assistance.

**Sec. 20. 28-A MRSA §1206,** as repealed and replaced by PL 2009, c. 652, Pt. A, §42, is amended to read:

**§1206. Consumption prohibited on off-premises retail premises**

A person may not consume liquor on the premises of an off-premise retail licensee licensed under this chapter except as provided in sections 460, 1205, 1207 and ~~1208, 1402-A and 1504.~~

**Sec. 21. 28-A MRSA §1355,** as amended by PL 2011, c. 280, §2, is repealed.

**Sec. 22. 28-A MRSA §1355-A** is enacted to read:

**§1355-A. Manufacturer licenses**

**1. Issuance of licenses.** The bureau may issue manufacturer licenses to distill, rectify, brew or bottle spirits, wine or malt liquor to distillers, rectifiers, brewers, bottlers and wineries operating under federal law and federal supervision.

**2. Manufacturers.** The following provisions apply to brewery, small brewery, winery, small winery, distillery and small distillery licensees.

A. A licensee may permit sampling of the liquor product on the premises:

(1) By employees for the purpose of quality control of the product;

(2) By wholesalers for the purpose of determining whether to carry the product as a wholesale product if the holder of the license pays the excise tax on the product sampled according to section 1652; and

(3) By the public if the holder of the license pays the excise tax on the product sampled according to section 1652.

B. A licensee under this section may serve to the public complimentary samples of liquor produced by the licensee at the licensed premises where liquor is produced by the licensee.

C. A licensee under this section may sell to nonlicensees during regular business hours from the licensed premises where liquor is produced by the licensee liquor produced by the bottle, by the case or in bulk for consumption off the licensed premises. Spirits sold by distillers and small distillers in accordance with this paragraph must be first sold to the State, subject to the listing, pricing and distribution provisions of this Title.

D. A licensee under this section may sell from the licensed premises where liquor is produced by the licensee liquor produced by the licensee for consumption off the licensed premises.

E. A licensee may serve complimentary samples of liquor on Sunday after the hour of 9 a.m. and may sell liquor on Sunday after the hour of 9 a.m. if the municipality in which the licensed premises is located has authorized the sale of liquor on Sunday for consumption off the premises under chapter 5.

F. A licensee may charge for samples or shall otherwise comply with the conditions in paragraph E. Each sample poured is subject to a charge in an amount determined by the licensee and is subject to the sales tax on liquor under Title 36, section 1811. A licensee shall maintain a record of liquor samples subject to a charge and maintain those records for a period of 2 years.

G. A licensee that is a brewery or small brewery may sell on the premises during regular business hours and within the hours of legal sale to nonlicensees liquor produced at the licensed premises. The volume of the package may not exceed 15.5 gallons and must be consumed off the premises. The sale of packages described in this paragraph

must comply with keg tagging requirements provided in section 714. Each licensee shall submit a monthly report to its wholesaler detailing sales made directly from the premises. The wholesaler shall calculate the fees for any bottle deposit and submit an invoice to the licensee for expenses associated with the requirements prescribed in Title 32, chapter 28 including the retailer handling fee, state container deposit and a mutually agreed-upon pick-up fee.

H. A small winery or small brewery licensee shall keep and maintain complete records on all sales to a retail licensee.

I. A licensee may be issued one retail license under chapter 43 per licensed location for the sale of liquor to be consumed on the premises at the retail premises.

(1) The retail license must be held exclusively by the holder of the brewery, small brewery, winery, small winery, distillery or small distillery license.

(2) The retail license authorizes the sale of products of the brewery, small brewery, winery, small winery, distillery or small distillery, in addition to other liquor permitted to be sold under the retail license, to be consumed on the premises.

(3) All records related to activities under a manufacturer license issued under this section must be kept separate from records related to the retail license.

(4) A distillery or small distillery must meet the requirements of subsection 5, paragraph E.

J. A licensee may display up to 25 bottles of liquor produced by the licensee in a window of the location under paragraph D where liquor is sold for consumption off the licensed premises. Locations licensed under subsection 4, paragraph B, subparagraph (2) or subsection 5, paragraph B, subparagraph (3) may also display up to 25 bottles of liquor produced by the licensee.

**3. Breweries; small breweries.** Except as otherwise provided in this section, the following provisions apply to breweries and small breweries.

A. A holder of a brewery license may produce more than 50,000 gallons of malt liquor per year.

B. A holder of a small brewery license may produce not more than 50,000 gallons of malt liquor per year.

(1) Upon application by a holder of a small brewery license whose brewery has produced malt liquor in an amount that exceeds 50,000 gallons in one year, the bureau may renew

that holder's small brewery license for only one additional year.

(2) A holder of a small brewery license may sell or deliver its products to licensed retailers or wholesalers. The licensee may sell, on the premises for consumption off the premises, malt liquor produced at the licensed premises by the bottle, by the case or in bulk to licensed retailers, including, but not limited to, off-premises retail licensees, restaurants and clubs. Notwithstanding section 1361, the holder of a small brewery license may sell its products directly to a retail licensee under this paragraph without selling to a wholesale licensee.

C. Notwithstanding any other provision of this Title, a brewery or small brewery licensed in accordance with this section may sell from the establishment at the site of the brewery licensed for the sale of alcoholic beverages to be consumed on the premises malt liquor to be consumed off the premises under the conditions specified in this paragraph.

(1) Only malt liquor brewed at the brewery where the on-premises establishment is licensed may be sold at the on-premises establishment.

(2) Malt liquor must be dispensed in bottles provided by and with labels unique to the brewery of 32 to 64 ounces in volume.

(3) No more than 6 bottles may be prefilled at any one time.

(4) A deposit may be charged per bottle. Bottles sold under this paragraph are not subject to Title 32, chapter 28.

(5) The bottle in which the malt liquor is dispensed must be sealed by the licensee with a seal that is tamper-evident.

(6) Malt liquor dispensed in accordance with this paragraph must be consumed off the premises.

(7) All sales of malt liquor from the on-premises establishment for off-premises consumption must be accompanied by a sales receipt with a time stamp that indicates time of purchase.

(8) Sale of malt liquor from the on-premises establishment for off-premises consumption may not be made after 10:00 p.m.

The bureau may adopt rules to enforce this paragraph. Rules adopted in accordance with this paragraph are routine technical rules in accordance with Title 5, chapter 375, subchapter 2-A.

**4. Wineries; small wineries.** Except as otherwise provided in this section, the following provisions apply to wineries and small wineries.

A. A holder of a winery license may produce more than 50,000 gallons per year of wines, sparkling wines and fortified wines.

B. A holder of a small winery license may produce not more than 50,000 gallons per year of wines, sparkling wines and fortified wines.

(1) A holder of a small winery license may sell or deliver its products to licensed retailers or wholesalers. The licensee may sell, on the premises for consumption off the premises, wine produced at the licensed premises by the bottle, by the case or in bulk to licensed retailers, including, but not limited to, off-premises retail licensees, restaurants and clubs. Notwithstanding section 1361, the licensee may sell its products directly to a retail licensee under this paragraph without selling to a wholesale licensee.

(2) A holder of a small winery license, upon application to and approval of the bureau and payment of the license fees, may obtain licenses for off-premises consumption for up to 2 additional locations other than the location of the in-state manufacturer licensed under this section. The holder of the licenses is not required to conduct any bottling or production at the additional licensed locations but may conduct all activities permitted by this section at the additional licensed locations.

C. A holder of a winery or small winery license may fortify wine produced by the winery license holder and import spirits solely for this purpose.

(1) If a small winery license holder produces fortified wine pursuant to this paragraph, the combined total of wine, sparkling wine and fortified wine produced at the small winery may not exceed 50,000 gallons per year.

For purposes of this subsection, "fortified wine" means wine to which spirits have been added as long as the resulting liquor does not exceed 24% alcohol by volume.

**5. Distilleries; small distilleries.** Except as otherwise provided in this section, the following provisions apply to distilleries and small distilleries.

A. A holder of a distillery license may distill, rectify, blend and bottle more than 50,000 gallons of spirits per year.

B. A holder of a small distillery license may distill, rectify, blend and bottle not more than 50,000 gallons of spirits per year.

(1) The small distillery off-premises license fee is \$100.

(2) Upon application by a holder of a small distillery license whose distillery has produced spirits in an amount that exceeds 50,000 gallons in one year, the bureau may renew that holder's small distillery license for only one additional year.

(3) A holder of a small distillery license, upon application to and approval of the bureau and payment of the license fees, may obtain licenses for off-premises consumption for up to 2 additional locations other than the location of the in-state manufacturer licensed under this section. The holder of the licenses is not required to conduct any bottling or production at the additional licensed locations but may conduct all activities permitted by this section at the additional licensed locations.

C. To be eligible for a distillery or small distillery license, a person must hold a basic permit for distilling, rectifying, blending and bottling spirits from the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau.

D. Spirits produced by a holder of a distillery or small distillery license must be sold to the State and are subject to the listing, pricing and distribution provisions of this Title.

E. A holder of a distillery or small distillery license may be issued one license under chapter 43 per distillery location for a connected establishment for the sale of liquor to be consumed on the premises at the distillery.

(1) For the purposes of this paragraph, "connected establishment" means a Class A restaurant or a Class A restaurant/lounge that is owned exclusively by the holder of the in-state manufacturer license.

(2) All records of the manufacturer license must be kept separate from the records of the retail licensee.

F. A distillery or small distillery may provide samples to the public of liquors produced by the distillery that have been sold to the State in accordance with paragraph D and repurchased by the distillery or small distillery.

**Sec. 23. 28-A MRSA §1361, sub-§4,** as amended by PL 2005, c. 683, Pt. A, §46, is further amended to read:

**4. No sales of malt liquor or wine to person without wholesale license.** No certificate of approval holder, except a small ~~Maine~~ brewery or ~~farm~~ small winery licensee allowed to sell directly to retailers,

may sell or cause to be transported into the State any malt liquor or wine to any person to whom a Maine wholesale license has not been issued by the bureau. Malt liquor or wine must be delivered to the place of business of the wholesaler as shown in the wholesaler's license, must be unloaded and inventoried at the wholesaler's premises upon the wholesaler's receipt of the shipment and must come to rest before delivery is made to any retailer to enable the bureau to inspect and inventory wholesale warehouses for the purpose of verifying taxes that are required to be paid on malt liquor and wine purchased by importers.

**Sec. 24. 28-A MRSA §1366, sub-§1**, as enacted by PL 2011, c. 280, §3, is amended to read:

**1. Retail sales at farmers' market.** A licensee under section ~~1355~~ 1355-A, subsection ~~2~~ 3, ~~paragraph B or subsection 4, paragraph B~~ or an employee of the licensee who is at least 21 years of age may sell wine or malt liquor manufactured in the State by the licensee at a farmers' market pursuant to this section.

**Sec. 25. 28-A MRSA §1402-A, first ¶**, as enacted by PL 1997, c. 228, §1, is amended to read:

A person licensed as a small brewery, ~~farm~~ small winery or wholesaler may give a retail licensee samples of products under the following conditions:

**Sec. 26. 28-A MRSA §1402-A, sub-§3-A**, as enacted by PL 2003, c. 69, §1, is amended to read:

**3-A. Partial-bottle wine samples.** ~~The products are partial bottle Partial-bottle wine samples may be provided to licensees licensed for on-premises consumption. The agent providing the sample shall maintain a log stating the names of the licensees who sampled the product and the amount sampled. Partial bottle samples must be properly sealed between tastings and off-premises sales if the person receiving a sample is 21 years of age or older and is in a supervisory or managerial position;~~

**Sec. 27. 28-A MRSA §1402-A, sub-§4**, as amended by PL 2003, c. 69, §2, is further amended to read:

**4. Full-bottle samples.** The maximum amount of unopened full-bottle samples given to a retail licensee may not exceed 9 gallons of malt beverage and 9 liters of wine annually. A full-bottle sample is an unopened bottle of wine or malt beverage given to a retail licensee, which may be consumed by a retail licensee on or off the premises; and

**Sec. 28. 28-A MRSA §1402-A, sub-§5**, as enacted by PL 1997, c. 228, §1, is repealed.

**Sec. 29. 28-A MRSA §1403-A, sub-§2**, as enacted by PL 2009, c. 373, §1, is amended to read:

**2. Direct shipment of wine.** A ~~farm~~ small winery or other winery holding a federal basic wine manufacturing permit located within or outside the State

may obtain a wine direct shipper license by filing with the Liquor Licensing and Tax Division an application in a form determined by the bureau accompanied by an application fee of not more than \$200 and a copy of the applicant's current federal basic wine manufacturing permit and a list of wine labels to be shipped in accordance with this section.

**Sec. 30. 28-A MRSA §1403-A, sub-§10**, as enacted by PL 2009, c. 373, §1, is amended to read:

**10. Payment of excise and premium taxes.** A direct shipper located outside the State shall ~~quarterly~~ annually pay to the bureau all excise and premium taxes due on sales to residents of the State in the preceding ~~quarter year~~, the amount of such taxes to be calculated as if the sales were in the State.

**Sec. 31. 28-A MRSA §1504, sub-§5**, as enacted by PL 2007, c. 113, §1, is amended to read:

**5. Full-bottle samples.** The maximum amount of unopened full-bottle samples of distilled spirits given to a retail licensee by a sales representative may not exceed 3 liters per year per distiller represented by that sales representative, ~~and~~ Individual samples may not exceed one liter. A full-bottle sample is an unopened bottle of spirits provided to an agency liquor store or an on-premises retail licensee licensed to sell spirits.

**Sec. 32. 28-A MRSA §1504, sub-§6**, as enacted by PL 2007, c. 113, §1, is repealed and the following enacted in its place:

**6. Retail sampling.** Samples poured from a bottle of spirits designated for retail sampling may be provided to an on-premises licensee licensed to serve spirits and to an agency liquor store on the premises of the agency liquor store if the person receiving the sample is 21 years of age or older and is in a supervisory or managerial position with the agency liquor store. Bottles of spirits designated for retail sampling must be properly sealed between samplings.

**Sec. 33. 28-A MRSA §1551, sub-§3, ¶F**, as amended by PL 2005, c. 683, Pt. B, §21, is further amended to read:

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

**Sec. 34. 28-A MRSA §1551, sub-§3, ¶G**, as amended by PL 2005, c. 377, §2, is further amended to read:

G. Small ~~Maine~~ brewery, includes bottling (one year).....\$50; and

**Sec. 35. 28-A MRSA §1551, sub-§3, ¶H**, as enacted by PL 2005, c. 377, §3, is amended to read:

H. Small ~~brewer~~ distiller, includes bottling (one year) .....\$100.

**Sec. 36. 28-A MRSA §1652, sub-§2-B**, as enacted by PL 1997, c. 501, §4, is amended to read:

**2-B. Failure to make payments.** If a winery or brewery that has not filed an excise tax surety bond fails to make tax payments as required by this section, the bureau may immediately take back its license issued pursuant to section ~~4355~~ 1355-A, having the effect of voiding the license.

**Sec. 37. 28-A MRSA §2077, sub-§1-A**, as amended by PL 2009, c. 373, §2, is further amended to read:

**1-A. Importation of malt liquor or wine into State.** Except as provided in section 1403-A, a person other than a wholesale licensee, small brewery licensee or ~~farm~~ small winery licensee may not transport or cause to be transported malt liquor or wine into the State in a quantity greater than 3 gallons for malt liquor or 4 quarts for wine, unless it was legally purchased in the State. The following penalties apply to violations of this subsection.

A. A person who illegally transports into the State wine or malt liquor in a quantity of less than 10 gallons commits a civil violation for which a fine of not more than \$500 must be adjudged.

B. A person who illegally transports into the State wine or malt liquor in a quantity of 10 or more gallons commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

**Sec. 38. 28-A MRSA §2077, sub-§1-B**, as enacted by PL 2003, c. 452, Pt. P, §7 and affected by Pt. X, §2, is amended to read:

**1-B. Invoice required.** Each shipment of malt liquor or wine transported or caused to be transported by a wholesale licensee, small brewery licensee or ~~farm~~ small winery licensee into the State must be accompanied by an invoice that includes the wholesale licensee's, small brewery licensee's or ~~farm~~ small winery licensee's name and purchase number.

See title page for effective date.

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**CHAPTER 630  
S.P. 657 - L.D. 1880**

**An Act To Ensure the State's  
Authority over the Operation  
of Gambling Activities**

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

**Whereas**, a recent opinion of the United States Department of Justice clarified that intrastate sale of lottery tickets over the Internet is not in violation of the federal Interstate Wire Act of 1961; and

**Whereas**, the State needs to assert its authority over the conduct of gambling; 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. 8 MRSA §371, sub-§6** is enacted to read:

**6. Agent.** "Agent" means a person or that person's representative who has been licensed under this chapter to sell lottery tickets on behalf of the State from the physical premises of the licensee's retail business establishment.

**Sec. 2. 17-A MRSA §952, sub-§11**, as enacted by PL 1975, c. 499, §1, is amended to read:

**11.** "Unlawful" means not expressly authorized by statute. An activity not expressly authorized by statute does not cease to be unlawful solely because it is authorized under federal law or the laws of another state or jurisdiction.

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

Effective April 12, 2012.

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**CHAPTER 631  
H.P. 1098 - L.D. 1497**

**An Act Relating to Navigators  
under Health Benefit  
Exchanges**

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

**Sec. 1. 24-A MRSA §2188** is enacted to read:

**§2188. Permitted activities of insurance producers; navigators; requirements**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

**A.** "Exchange" means a health benefit exchange established or operated in this State, including a health benefit exchange established or operated by

the Secretary of the United States Department of Health and Human Services, pursuant to Section 1311 of the federal Affordable Care Act.

B. "Navigator" means a person selected to perform the activities and duties identified in Section 1311(i) of the federal Affordable Care Act. For the purposes of this section, if an organization or business entity serves as a navigator, an individual performing navigator duties for that organization or business entity is considered to be acting in the capacity of a navigator within the meaning of subsection 4.

**2. Permitted insurance producer or consultant activities.** Only a person licensed as an insurance producer in this State in accordance with chapter 16, or, with respect to paragraph B, a person licensed as a consultant in accordance with chapter 16, may:

- A. Sell, solicit or negotiate health insurance;
- B. Make recommendations to purchasers, enrollees or employers or prospective purchasers or enrollees concerning the substantive benefits, terms or conditions of health plans; or
- C. Enroll an individual or employee in a qualified health plan offered through an exchange or act as an intermediary between an employer and an insurer that offers a qualified health plan offered through an exchange.

**3. Certification of navigators.** Prior to any exchange becoming operational in this State, the superintendent shall:

- A. Develop criteria for use by any exchange for the selection of a navigator pursuant to Section 1311(i) of the federal Affordable Care Act and state law;
- B. Adopt rules to establish a certification and training program for a prospective individual navigator that includes initial and continuing education requirements and an examination; and
- C. Adopt rules, to the extent permitted by the federal Affordable Care Act, that require a navigator to carry and maintain errors and omissions insurance to cover all activities contemplated or performed pursuant to this section and Section 1311(i) of the federal Affordable Care Act.

**4. Navigator requirements.** An individual other than a licensed insurance producer under chapter 16, may not act in the capacity of a navigator unless the individual:

- A. Is at least 18 years of age;
- B. Has completed and submitted a disclosure form, which must be developed by the superintendent and which may include such information as the superintendent determines necessary, and

has declared under penalty of refusal, suspension or revocation of the navigator certification that the statements made in the form are true, correct and complete to the best of the individual's knowledge and belief;

C. Has submitted to any criminal history record check or regulatory background check required by the superintendent by rule;

D. Has not committed any act that would be a ground for denial, suspension or revocation of a producer license as set forth in section 1420-K;

E. Has successfully completed the certification and training requirements adopted by the superintendent in accordance with subsection 3; and

F. Has paid any fees required by the superintendent.

**5. Unfair practices.** The provisions of this chapter and chapter 24 and any rules adopted pursuant to those chapters apply to navigators. For purposes of this section and the application of other provisions of this Title, the duties of a navigator are deemed to constitute the business of insurance.

**6. Denial, suspension or revocation.** The superintendent may deny, suspend or revoke the authority of a navigator certified pursuant to this section for good cause.

**7. Rules.** The superintendent may adopt rules as necessary to implement this section. 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 632**

**S.P. 557 - L.D. 1658**

**An Act To Protect Gasoline Marketers from Liability for Selling Federally Approved Gasoline**

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

**Sec. 1. 10 MRSA §1453, sub-§§1-A and 1-B** are enacted to read:

**1-A. Blender.** "Blender" means any person who blends blend stock with gasoline or who sells or distributes blend stock for the purpose of being blended with gasoline.

**1-B. Blend stock.** "Blend stock" means ethanol, methanol or any other products blended with gasoline to produce motor fuel.

**Sec. 2. 10 MRSA §1457-A** is enacted to read:

**§1457-A. Liability for use of ethanol-enhanced motor fuel**

A distributor, blender or retail dealer is not liable for damages caused by the use of motor fuel containing more than 10% ethanol sold, consigned or distributed by that distributor, blender or retail dealer if the sale, consignment or distribution of that motor fuel is in accordance with federal law and the fuel is a transportation fuel or fuel additive that has received a waiver for introduction into interstate commerce by the Administrator of the United States Environmental Protection Agency pursuant to 42 United States Code, Section 7545(f)(4) (2011).

See title page for effective date.

**CHAPTER 633****H.P. 1312 - L.D. 1787**

**An Act To Create Efficiencies  
in the Administration and  
Enforcement of the Maine  
Uniform Building and  
Energy Code**

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

**Sec. 1. 5 MRSA §948, sub-§1, ¶L**, as amended by PL 2009, c. 317, Pt. A, §1, is further amended to read:

L. Director, Maine Emergency Medical Services; and

**Sec. 2. 5 MRSA §948, sub-§1, ¶M**, as enacted by PL 2009, c. 317, Pt. A, §1, is amended to read:

M. Director, Bureau of Consolidated Emergency Communications; and

**Sec. 3. 5 MRSA §948, sub-§1, ¶N**, as enacted by PL 2009, c. 317, Pt. A, §1, is repealed.

**Sec. 4. 10 MRSA §9042, sub-§3**, as amended by PL 2005, c. 344, §19, is further amended to read:

**3. Exemption.** Notwithstanding the provisions of Title 25, section ~~2357~~ 2357-A and Title 30-A, section 4358, new manufactured housing that is manufactured, brokered, distributed, sold, installed or serviced in compliance with this chapter is exempt from all state or other political subdivision codes, standards, rules or regulations that regulate the same matters. A building permit or certificate of occupancy may not be delayed, denied or withheld on account of any alleged failure of new manufactured housing to comply with any code, standard, rule or regulation from which the new manufactured housing is exempt under this subsection.

**Sec. 5. 10 MRSA §9722, sub-§1**, as enacted by PL 2007, c. 699, §6, is amended to read:

**1. Establishment.** The Technical Building Codes and Standards Board, established in Title 5, section 12004-G, subsection 5-A and located within the Department of Public Safety, Office of the State Fire Marshal, is established to adopt, amend and maintain the Maine Uniform Building and Energy Code, to resolve conflicts between the Maine Uniform Building and Energy Code and the fire and life safety codes in Title 25, sections 2452 and 2465 and to provide for training for municipal building officials, local code enforcement officers and 3rd-party inspectors.

**Sec. 6. 10 MRSA §9723, sub-§2**, as enacted by PL 2007, c. 699, §6, is amended to read:

**2. Training program standards; implementation.** The committee shall direct the training coordinator of the ~~Bureau~~ Division of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building officials, local code enforcement officers and 3rd-party inspectors. The Executive Department, State Planning Office, pursuant to Title 30-A, section 4451, subsection 3-A, shall implement the training and certification program established under this chapter.

**Sec. 7. 25 MRSA §2371, sub-§3**, as enacted by PL 2007, c. 699, §11, is repealed.

**Sec. 8. 25 MRSA §2371, sub-§5-A** is enacted to read:

**5-A. Division.** "Division" means the Division of Building Codes and Standards established in section 2372.

**Sec. 9. 25 MRSA §2372**, as enacted by PL 2007, c. 699, §11, is amended to read:

**§2372. Division of Building Codes and Standards**

**1. Established.** The ~~Bureau~~ Division of Building Codes and Standards is established within the Department of Public Safety, Office of the State Fire Marshal to provide administrative support and technical assistance to the board in executing its duties pursuant to Title 10, section 9722, subsection 6.

**2. Staff.** The commissioner may appoint or remove for cause staff of the ~~bureau~~ division, including:

A. A technical codes coordinator certified in building standards pursuant to Title 30-A, section 4451, subsection 2-A, paragraph E, who serves as the ~~bureau~~ division director and principal administrative and supervisory employee of the board. The technical codes coordinator shall attend meetings of the board, keep records of the proceedings of the board and direct and supervise the personnel employed to carry out the duties of the board, including but not limited to providing technical support and public outreach for the adoption of

the code, amendments, conflict resolutions and interpretations. Technical support and public outreach must include, but may not be limited to:

- (1) Providing nonbinding interpretation of the code for professionals and the general public; and
- (2) Establishing and maintaining a publicly accessible website to publish general technical assistance, code updates and interpretations and post-training course schedules; and

B. An office specialist to provide administrative support to the ~~bureau~~ division and the board.

**Sec. 10. 25 MRSA §2373, sub-§4**, as enacted by PL 2007, c. 699, §11, is amended to read:

**4. Third-party inspectors.** Reports from 3rd-party inspectors certified pursuant to Title 10, section 9723 submitted to the building official prior to obtaining a certificate of occupancy in section ~~2357~~ 2357-A that are obtained pursuant to independent contractual arrangements between the building owner and 3rd-party inspector or the municipality and 3rd-party inspector.

**Sec. 11. 25 MRSA §2374**, as amended by PL 2009, c. 213, Pt. M, §3, is further amended to read:

**§2374. Uniform Building Codes and Standards Fund**

The Uniform Building Codes and Standards Fund, referred to in this section as "the fund," is established within the Department of Public Safety to fund the activities of the ~~bureau~~ division under this chapter and the activities of the board under Title 10, chapter 1103 and the Executive Department, State Planning Office under Title 30-A, section 4451, subsection 3-A. Revenue for this fund is provided by the surcharge established by section 2450-A. The Department of Public Safety and the Executive Department, State Planning Office shall together determine an amount to be transferred annually from the fund for training and certification under Title 30-A, section 4451, subsection 3-A to the Maine Code Enforcement Training and Certification Fund established in Title 30-A, section 4451, subsection 3-B. Any balance of the fund may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal year.

**Sec. 12. 25 MRSA §2450-A**, as enacted by PL 2007, c. 699, §13, is amended to read:

**§2450-A. Surcharge on plan review fee for Uniform Building Codes and Standards Fund**

In addition to the fees established in section 2450, a surcharge of 4¢ per square foot of occupied space must be levied on the existing fee schedule for new construction, reconstruction, repairs, renovations or new use for the sole purpose of funding the activities

of the Technical Building Codes and Standards Board with respect to the Maine Uniform Building and Energy Code, established pursuant to ~~the~~ Title 10, chapter 1103, the activities of the ~~Bureau~~ Division of Building Codes and Standards under chapter 314 and the activities of the Executive Department, State Planning Office under Title 30-A, section 4451, subsection 3-A, except that the fee for review of a plan for the renovation of a public school, including the fee established under section 2450, may not exceed \$450. Revenue collected from this surcharge must be deposited into the Uniform Building Codes and Standards Fund established by section 2374.

**Sec. 13. 25 MRSA §2901**, as amended by PL 2009, c. 317, Pt. E, §3, is further amended to read:

**§2901. Department; commissioner**

There is created and established the Department of Public Safety to coordinate and efficiently manage the law enforcement and public safety responsibilities of the State, to consist of the Commissioner of Public Safety, in this chapter called "commissioner," who is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over criminal justice matters and to confirmation by the Legislature, to serve at the pleasure of the Governor, and the following: the Bureau of State Police, the Office of the State Fire Marshal, the Maine Criminal Justice Academy, the Bureau of Highway Safety, the Maine Drug Enforcement Agency, Maine Emergency Medical Services, the Bureau of Capitol Security, the Bureau of Consolidated Emergency Communications, ~~the Bureau of Building Codes and Standards~~ and the Gambling Control Unit.

**Sec. 14. 25 MRSA §2902, sub-§10**, as enacted by PL 2009, c. 317, Pt. E, §8, is amended to read:

**10. Maine Emergency Medical Services.** The Maine Emergency Medical Services, which is under the direction of the Director of Maine Emergency Medical Services; and

**Sec. 15. 25 MRSA §2902, sub-§11**, as enacted by PL 2009, c. 317, Pt. E, §9, is repealed.

**Sec. 16. Report on transition; authority to report out a bill.** No later than January 15, 2014, the Department of Public Safety, Office of the State Fire Marshal shall provide a report to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters that details the transition of the Technical Building Codes and Standards Board to the Office of the State Fire Marshal and that provides an update on the funding for the operation of the board and the training program for municipal building officials, local code enforcement officers and 3rd-party inspectors. The joint standing committee of the Legislature having jurisdiction over labor, commerce, re-

search and economic development matters is authorized to report out a bill concerning the details of this report to the Second Regular Session of the 126th Legislature.

**Sec. 17. Appropriations and allocations.**  
The following appropriations and allocations are made.

**PUBLIC SAFETY, DEPARTMENT OF**

**Bureau of Building Codes and Standards Z073**

Initiative: Eliminates one Director, Bureau of Building Codes and Standards position.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$89,895)
	\$0	(\$89,895)
OTHER SPECIAL REVENUE FUNDS TOTAL		

**Bureau of Building Codes and Standards Z073**

Initiative: Reallocates the cost of one Public Safety License Inspector Supervisor position from 100% Fire Marshal - Office program to 50% Fire Marshal - Office program and 50% Bureau of Building Codes and Standards program.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	0.500
Personal Services	\$0	\$48,795
	\$0	\$48,795
OTHER SPECIAL REVENUE FUNDS TOTAL		

**Fire Marshal - Office of 0327**

Initiative: Reallocates the cost of one Public Safety License Inspector Supervisor position from 100% Fire Marshal - Office program to 50% Fire Marshal - Office program and 50% Bureau of Building Codes and Standards program.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(0.500)
Personal Services	\$0	(\$48,795)
	\$0	(\$48,795)
OTHER SPECIAL REVENUE FUNDS TOTAL		

**PUBLIC SAFETY, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	\$0	(\$89,895)
DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$89,895)

See title page for effective date.

**CHAPTER 634**

**S.P. 624 - L.D. 1806**

**An Act To Promote Transparency in Government**

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

**Sec. 1. 1 MRSA §1012, sub-§1-A**, as enacted by PL 2003, c. 268, §1, is amended to read:

**1-A. Associated organization.** "Associated organization" means any organization in which a Legislator or a ~~Legislator's spouse~~ member of the Legislator's immediate family is a managerial employee, director, officer or trustee; or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity.

**Sec. 2. 1 MRSA §1012, sub-§7**, as corrected by RR 2001, c. 1, §6, is amended to read:

**7. Income.** "Income" means economic gain to a person from any source, including, but not limited to, compensation for services, including fees, commissions and payments in kind; gross income derived from business; ~~gains~~ gross income derived from dealings in property, rents and royalties; gross income from investments including interest, capital gains and dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; ~~distributive share of distributions from a partnership income or limited liability company~~; gross income from an interest in an estate or trust; prizes; and grants, but does not include gifts or honoraria. Income received in kind includes, but is not limited to, the transfer of property and options to buy or lease, and stock certificates. "Income" does not include: alimony and separate maintenance payments, child support payments or campaign contributions accepted for state or federal office or funds or other property held in trust for another, including but not limited to money to be spent on behalf of a client for payment of a licensing or filing fee.

~~A. Alimony and separate maintenance payments; or~~

~~B. Campaign contributions recorded and reported as required by Title 21-A, chapter 13.~~

**Sec. 3. 1 MRSA §1012, sub-§7-A** is enacted to read:

**7-A. Managerial employee.** "Managerial employee" means an employee of an organization whose position requires substantial control over the organization's decision making, business operations, financial management or contracting and procurement activities. For the purposes of this subsection, financial management does not include tasks that are considered clerical in nature.

**Sec. 4. 1 MRSA §1012, sub-§8,** as amended by PL 2009, c. 208, §4, is further amended to read:

**8. Relative.** "Relative" means an individual who is related to the Legislator or the Legislator's spouse or the Legislator's domestic partner as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, domestic partner, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister, and includes the fiance or fiancée of the Legislator.

**Sec. 5. 1 MRSA §1012, sub-§8-A** is enacted to read:

**8-A. Reportable liability.** "Reportable liability" means any unsecured loan of \$3,000 or more received from a person who is not a relative. "Reportable liability" does not include:

A. A credit card liability;

B. An educational loan made or guaranteed by a governmental entity, educational institution or nonprofit organization; or

C. A loan made from a state or federally regulated financial institution for business purposes.

**Sec. 6. 1 MRSA §1016-A,** as amended by PL 2007, c. 704, §1, is repealed.

**Sec. 7. 1 MRSA §1016-B,** as amended by PL 1991, c. 331, §1, is repealed.

**Sec. 8. 1 MRSA §1016-C,** as amended by PL 2011, c. 471, §4, is further amended to read:

**§1016-C. Reports by legislative candidates**

A candidate, as defined in Title 21-A, section 1, subsection 5, for the Legislature who is not required to file a report under section ~~1016-A, 1016-B or 1016-E~~ 1016-G shall file a report containing the same information required of Legislators under ~~sections 1016-A, 1016-B and 1016-E~~ section 1016-G no later than

5 p.m. on the first Monday in August preceding the general election unless the candidate withdraws from the election in accordance with Title 21-A, section 374-A by that date.

**Sec. 9. 1 MRSA §1016-E,** as enacted by PL 2007, c. 704, §2, is repealed.

**Sec. 10. 1 MRSA §1016-F,** as enacted by PL 2007, c. 704, §3, is repealed.

**Sec. 11. 1 MRSA §1016-G** is enacted to read:

**§1016-G. Disclosure of specific sources of income, interests and reportable liabilities**

Each Legislator shall annually file with the commission a statement identifying the sources of income received, positions held and reportable liabilities incurred during the preceding calendar year by the Legislator or members of the Legislator's immediate family. A Legislator who has completed service in the Legislature shall file the statement within 45 days of the Legislator's last day of service to disclose the sources of income in the Legislator's final calendar year of service.

**1. Content of statement.** The name and, where applicable, the job title of the individual earning or receiving the income must be disclosed, unless otherwise noted. Each source of income must be identified by name, address and principal type of economic or business activity. If disclosure of this type is prohibited by statute, rule or an established code of professional ethics, it is sufficient for the Legislator to specify the principal type of economic or business activity from which the income is derived.

The statement must identify:

A. If the Legislator is an employee of another person, firm, corporation, association or organization that has provided the Legislator with compensation of \$2,000 or more, the name and address of the employer. The Legislator shall identify the title and position held by the Legislator;

B. If the Legislator is self-employed, the name and address of the Legislator's business and each source of income derived from self-employment that represents more than 10% of the Legislator's gross income from self-employment or \$2,000, whichever is greater;

C. The name, address and principal economic or business activity of any corporation, partnership, limited liability company or other business in which the Legislator or members of the Legislator's immediate family own or control, directly or indirectly, more than 50% of the outstanding equity, whether individually or in the aggregate, that has received revenue of \$2,000 or more;

D. Each source of income of \$2,000 or more the Legislator derived from providing services as an

attorney, the major areas of law practiced by the Legislator and, if associated with a law firm, the major areas of practice of the firm;

E. Each source of income of \$2,000 or more received by the Legislator;

F. The specific source of each gift received by the Legislator;

G. Each source of income of \$2,000 or more received by any member of the immediate family of the Legislator, except that the Legislator is not required to identify the names of dependent children. If the member of the Legislator's immediate family received income of \$2,000 or more in compensation, the Legislator shall identify the source of the compensation, the type of the economic activity and the title of the position held by the immediate family member;

H. Each source of honoraria of \$2,000 or more that the Legislator accepted;

I. Each executive branch agency before which the Legislator or any immediate family member has represented or assisted others for compensation;

J. Each state governmental agency, board or commission to which the Legislator, a member of the Legislator's immediate family or an associated organization has sold, rented or leased goods or services with a value of \$10,000 or more during the preceding calendar year and a description of the goods or services sold, rented or leased;

K. Each organization that is required under Title 21-A, chapter 13 to register with the commission as a political action committee or ballot question committee for which the Legislator is a treasurer, principal officer or principal fund-raiser or decision maker;

L. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the Legislator or a member of the Legislator's immediate family with any for-profit or nonprofit firm, corporation, association, limited liability company, partnership or business. For the purposes of this paragraph, service as a clerk of a corporation or as a registered agent authorized to receive service of any process, notice or other demand for a business entity is not considered a position with the corporation or business entity; and

M. All reportable liabilities incurred by the Legislator or a member of the Legislator's immediate family during the reporting period.

**2. Time for filing.** The following provisions govern the time for filing statements.

A. Each Legislator shall file with the commission by 5:00 p.m. on February 15th of each year on the

form provided by the commission a statement of the sources of income, interests and reportable liabilities for the preceding calendar year required by subsection 1. Prior to the end of the first week in January of each year, the commission shall deliver a form to each Senator and member of the House of Representatives.

B. A Legislator shall file an updated statement concerning the current calendar year if the income, reportable liabilities or positions of the Legislator or an immediate family member, except for dependent children, substantially change from those disclosed in the Legislator's most recent statement. Substantial changes include, but are not limited to, a new employer that has paid the Legislator or a member of the Legislator's immediate family \$2,000 or more during the current year, another source that has provided the Legislator or a member of the Legislator's immediate family, excluding dependent children, with income that totals \$2,000 or more during the current year or the acceptance of a new position with a for-profit or nonprofit firm that is reportable under subsection 1, paragraph L. The Legislator shall file the updated statement within 30 days of the substantial change in income, reportable liabilities or positions.

**3. Penalties.** Penalties for violations of this section are as follows.

A. Failing to file a statement within 15 days of having been notified by the commission is a civil violation for which a fine of not more than \$100 may be adjudged. A statement is not considered filed unless it substantially conforms to the requirements of this subchapter and is properly signed. The commission shall determine whether a statement substantially conforms to the requirements of this subchapter.

B. The intentional filing of a false statement is a Class E crime. If the commission concludes that it appears that a Legislator has willfully filed a false statement, it shall refer its findings of fact to the Attorney General. If the commission determines that a Legislator has willfully failed to file a statement required by this subchapter or has willfully filed a false statement, the Legislator is presumed to have a conflict of interest on every question and must be precluded or subject to penalty as provided in section 1015.

**4. Rules, procedures and forms.** The commission may adopt or amend rules to specify the reportable categories or types and the procedures and forms for reporting and to administer this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**5. Public record.** Statements filed under this section are public records. The commission shall publish on a publicly accessible website the completed forms of Legislators filed under this section.

**Sec. 12. 1 MRSA §1017-A**, as amended by PL 2007, c. 704, §4, is repealed.

**Sec. 13. 1 MRSA §1018**, as amended by PL 2001, c. 75, §2, is repealed.

**Sec. 14. 1 MRSA §1019**, as amended by PL 2011, c. 471, §5, is repealed.

**Sec. 15. 5 MRSA §19, sub-§1, ¶¶A-1 and B-1** are enacted to read:

A-1. "Associated organization" means any organization in which an executive employee or a member of the executive employee's immediate family is a managerial employee, director, officer or trustee or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity.

B-1. "Domestic partner" means the partner of an executive employee who:

(1) Has been legally domiciled with the executive employee for at least 12 months;

(2) Is not legally married to or legally separated from an individual;

(3) Is the sole partner of the executive employee and expects to remain so; and

(4) Is jointly responsible with the executive employee for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.

**Sec. 16. 5 MRSA §19, sub-§1, ¶G**, as enacted by PL 1989, c. 561, §14, is amended to read:

G. "Immediate family" means a person's spouse, domestic partner or dependent children.

**Sec. 17. 5 MRSA §19, sub-§1, ¶H**, as enacted by PL 1989, c. 561, §14, is amended to read:

H. "Income" means economic gain to a person from any source, including, but not limited to, compensation for services, including fees, commissions and payments in-kind; gross income derived from business; ~~gains~~ gross income derived from dealings in property, rents and royalties; gross income from investments including interest, capital gains and dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; ~~distributive share of distributions from a partnership income or limited liability company;~~ gross income from an interest in an estate or trust; prizes; and grants, but does not include gifts or

honoraria. Income received in-kind includes, but is not limited to, the transfer of property and options to buy or lease and stock certificates. "Income" does not include alimony and separate maintenance payments, child support payments or campaign contributions accepted for state or federal office or funds or other property held in trust for another, including but not limited to fees paid in advance or money to be spent on behalf of a client for payment of a licensing or filing fee.

**Sec. 18. 5 MRSA §19, sub-§1, ¶H-1** is enacted to read:

H-1. "Managerial employee" means an employee of an organization whose position requires substantial control over the organization's decision making, business operations, financial management or contracting and procurement activities. For the purposes of this subsection, financial management does not include tasks that are considered clerical in nature.

**Sec. 19. 5 MRSA §19, sub-§2**, as amended by PL 2009, c. 524, §2, is repealed and the following enacted in its place:

**2. Content of statement.** Each executive employee shall annually file with the Commission on Governmental Ethics and Election Practices a statement identifying the sources of income received, positions held and reportable liabilities incurred during the preceding calendar year by the executive employee or members of the executive employee's immediate family. The name and, where applicable, the job title of the individual earning or receiving the income must be disclosed, unless otherwise noted. Each source of income must be identified by name, address and principal type of economic or business activity. If disclosure of this type is prohibited by statute, rule or an established code of professional ethics, it is sufficient for the executive employee to specify the principal type of economic or business activity from which the income is derived.

The statement must identify:

A. If the executive employee is an employee of another person, firm, corporation, association or organization that has provided the executive employee with compensation of \$2,000 or more, the name and address of the employer;

B. If the executive employee is self-employed, the name and address of the executive employee's business and each source of income derived from self-employment that represents more than 10% of the employee's gross income from self-employment or \$2,000, whichever is greater;

H. The name, address and principal economic or business activity of any corporation, partnership, limited liability company or other business in

which the executive employee or members of the employee's immediate family own or control, directly or indirectly, more than 50% of the outstanding equity, whether individually or in the aggregate, that has received revenue of \$2,000 or more;

I. Each source of income of \$2,000 or more the executive employee derived from providing services as an attorney, the major areas of law practiced by the executive employee and, if associated with a law firm, the major areas of practice of the firm;

J. Each additional source of income of \$2,000 or more received by the executive employee;

K. The specific source of each gift received by the executive employee;

L. Each source of income of \$2,000 or more received by any member of the immediate family of the executive employee, except that the employee is not required to identify the names of dependent children. If the member of the executive employee's immediate family received income of \$2,000 or more in compensation, the executive employee shall identify the source of the compensation, the type of the economic activity and the title of the position held by the immediate family member;

M. Each source of honoraria of \$2,000 or more that the executive employee accepted;

N. Each executive branch agency before which the executive employee or a member of the employee's immediate family has represented or assisted others for compensation;

O. Each state governmental agency, board or commission to which the executive employee, a member of the employee's immediate family or an associated organization has sold, rented or leased goods or services with a value of \$10,000 or more during the preceding calendar year and a description of the goods or services sold, rented or leased;

P. Each organization that is required under Title 21-A, chapter 13 to register with the commission as a political action committee or ballot question committee for which the executive employee is a treasurer, principal officer or principal fund-raiser or decision maker of the organization;

Q. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the executive employee or a member of the employee's immediate family with any for-profit or nonprofit firm, corporation, association, limited liability company, partnership or business. For the purposes of this paragraph, service as a clerk of a corporation or as a registered

agent authorized to receive service of any process, notice or other demand for a business entity is not considered a position with the corporation or business entity; and

R. All reportable liabilities incurred by the executive employee or members of the employee's immediate family during the reporting period.

**Sec. 20. 5 MRSA §19, sub-§3, ¶B**, as amended by PL 2001, c. 75, §3, is further amended to read:

B. Each executive employee shall file the annual report prior to the close of the 2nd week in April by 5:00 p.m. on April 15th of each year, unless that employee has filed an initial or updating report during the preceding 30 days; except that, if an elected or appointed executive employee or has already filed a report for the preceding calendar year pursuant to paragraph A, a report does not need to be filed.

**Sec. 21. 5 MRSA §19, sub-§3, ¶C**, as enacted by PL 1979, c. 734, §2, is repealed and the following enacted in its place:

C. An executive employee shall file an updated statement concerning the current calendar year if the income, reportable liabilities or positions of the executive employee or an immediate family member, excluding dependent children, substantially change from those disclosed in the employee's most recent statement. Substantial changes include, but are not limited to, a new employer that has paid the executive employee or immediate family member, excluding dependent children, \$2,000 or more during the current year, another source that has provided the employee with income that totals \$2,000 or more during the current year or the acceptance of a new position with a for-profit or nonprofit firm that is reportable under subsection 2, paragraph Q. The executive employee shall file the updated statement within 30 days of the substantial change in income, reportable liabilities or positions.

**Sec. 22. 5 MRSA §19, sub-§3-A** is enacted to read:

**3-A. Filing upon termination of employment.**

An executive employee whose employment has terminated shall file a statement of finances as described in subsection 2 and a statement of positions as described in subsection 2-A within 45 days after the termination of employment relating to the final calendar year of the employment.

**Sec. 23. 5 MRSA §19, sub-§4**, as amended by PL 2007, c. 704, §7, is repealed and the following enacted in its place:

**4. Penalties.** Penalties for violation of this section are as follows.

A. Failing to file a statement within 15 days of having been notified by the Commission on Governmental Ethics and Election Practices is a civil violation for which a fine of not more than \$100 may be adjudged. A statement is not considered filed unless it substantially conforms to the requirements of Title 1, chapter 25, subchapter 2 and is properly signed. The commission shall determine whether a statement substantially conforms to such requirements.

B. The intentional filing of a false statement is a Class E crime. If the Commission on Governmental Ethics and Election Practices concludes that it appears that an executive employee has willfully filed a false statement, it shall refer its findings of fact to the Attorney General.

**Sec. 24. 5 MRSA §19, sub-§7**, as amended by PL 2011, c. 389, §1, is repealed.

**Sec. 25. Rulemaking regarding reporting by estranged spouse or domestic partner.** The Commission on Governmental Ethics and Election Practices shall adopt rules to exclude from the definition of "immediate family," for purposes of income reporting pursuant to the Maine Revised Statutes, Title 1, section 1016-G and Title 5, section 19, an estranged spouse or domestic partner of a Legislator or an executive employee. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 635**

**H.P. 1376 - L.D. 1858**

**An Act To Ensure Effective Teaching and School Leadership**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**PART A**

**Sec. A-1. 20-A MRSA §1055, sub-§10**, as amended by PL 2011, c. 172, §1, is further amended to read:

**10. Supervise school employees.** The superintendent is responsible for ~~the evaluation of~~ implement-

ing a performance evaluation and professional growth system for all teachers and principals pursuant to chapter 508 and an evaluation system for all other employees of the school administrative unit. The superintendent shall evaluate probationary teachers during, but not limited to, their 2nd year of employment. The method of evaluation must be determined by the school board, be in compliance with the requirements of chapter 508 and be implemented by the superintendent.

**Sec. A-2. 20-A MRSA §13201, 5th ¶**, as amended by PL 2011, c. 172, §2 and affected by §4, is further amended to read:

The right to terminate a contract, after due notice of 90 days, is reserved to the school board when changes in local conditions warrant the elimination of the teaching position for which the contract was made. The order of layoff and recall is a negotiable item in accordance with the procedures set forth in Title 26, chapter 9-A. In any negotiated agreement, the criteria negotiated by the school board and the bargaining agent to establish the order of layoff and recall must include the teacher's effectiveness rating pursuant to chapter 508 as a factor and may also include, but may not be limited to, seniority.

**Sec. A-3. 20-A MRSA c. 508** is enacted to read:

**CHAPTER 508**

**EDUCATOR EFFECTIVENESS**

**§13701. Definitions**

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

**1. Educator.** "Educator" means a teacher or a principal.

**2. Effectiveness rating.** "Effectiveness rating" means the level of effectiveness of an educator derived through implementation of a performance evaluation and professional growth system.

**3. Performance evaluation and professional growth system.** "Performance evaluation and professional growth system" or "system" means a method developed in compliance with this chapter by which educators are evaluated, rated on the basis of effectiveness and provided opportunities for professional growth.

**4. Professional improvement plan.** "Professional improvement plan" means a written plan developed by a school or district administrator with input from an educator that outlines the steps to be taken over the coming year to improve the effectiveness of the educator. The plan must include but need not be limited to appropriate professional development opportunities.

**5. Summative effectiveness rating.** "Summative effectiveness rating" means the effectiveness rating of an educator that is assigned at the end of an evaluation period. Ratings or comments provided to the educator during the evaluation period for the purpose of providing feedback, prior to assignment of a final effectiveness rating, are not summative effectiveness ratings.

**§13702. Local development and implementation of system**

Each school administrative unit shall develop and implement a performance evaluation and professional growth system for educators. The system must meet the criteria set forth in this chapter and rules adopted pursuant to this chapter and must be approved by the department.

**§13703. Use of effectiveness rating; grievance**

A superintendent shall use effectiveness ratings of educators to inform strategic human capital decision making, including, but not limited to, decision making regarding recruitment, selection, induction, mentoring, professional development, compensation, assignment and dismissal.

Receipt of summative effectiveness ratings indicating that a teacher is ineffective for 2 consecutive years constitutes just cause for nonrenewal of a teacher's contract unless the ratings are the result of bad faith.

Any appeal of, or grievance relating to, an evaluation conducted pursuant to this chapter or an effectiveness rating resulting from implementation of a system is limited to matters relating to the implementation of the system or the existence of bad faith in an evaluation or the assignment of a rating. The professional judgment involved in an evaluation or implementation of the system is not subject to appeal or grievance.

**§13704. Elements of system**

A performance evaluation and professional growth system consists of the following elements:

**1. Standards of professional practice.** Standards of professional practice by which the performance of educators must be evaluated.

A. The department shall provide, by rule, a set of standards of professional practice or a set of criteria for determining acceptable locally determined standards for teachers and a set of standards of professional practice or a set of criteria for determining acceptable locally determined standards for principals;

**2. Multiple measures of effectiveness.** Multiple measures of educator effectiveness, other than standards of professional practice, including but not limited to student learning and growth;

**3. Rating scale.** A rating scale consisting of 4 levels of effectiveness.

A. The rating must be based on standards of professional practice and measures of educator effectiveness. The proportionate weight of the standards and the measures is a local decision, but measurements of student learning and growth must be a significant factor in the determination of the rating of an educator.

B. The rating scale must set forth the professional growth opportunities and the employment consequences tied to each level.

C. At least 2 of the levels must represent effectiveness, and at least one level must represent ineffectiveness;

**4. Professional development.** A process for using information from the evaluation process to inform professional development;

**5. Implementation procedures.** Implementation procedures that include the following:

A. Evaluation of educators on a regular basis, performed by one or more trained evaluators. The frequency of evaluations may vary depending on the effectiveness level at which the educator is performing, but observations of professional practice, formative feedback and continuous improvement conversations must occur throughout the year for all educators;

B. Ongoing training on implementation of the system to ensure that all educators and evaluators understand the system and have the knowledge and skills needed to participate in a meaningful way;

C. A peer review component to the evaluation and professional growth system and opportunities for educators to share, learn and continually improve their practice; and

D. Formation of a steering committee composed of teachers, administrators and other school administrative unit staff that regularly reviews and refines the performance evaluation and professional growth system to ensure that it is aligned with school administrative unit goals and priorities; and

**6. Professional improvement plan.** The opportunity for a educator who receives a summative effectiveness rating indicating ineffectiveness in any given year to implement a professional improvement plan.

**§13705. Phase-in of requirements**

The requirements of this chapter apply to all school administrative units beginning in the 2015-2016 school year. In the 2013-2014 school year, each unit shall develop a system that meets the standards of

this chapter, in collaboration with teachers, principals, administrators, school board members, parents and other members of the public. In the 2014-2015 school year, each unit shall operate as a pilot project the system developed in the prior year by applying it in one or more of the schools in the unit or by applying it without using results in any official manner or shall employ other means to provide information to enable the unit to adjust the system prior to the first year of full implementation. Nothing in this section prohibits a unit from fully implementing the system earlier than the 2015-2016 school year.

#### **§13706. Rules**

The department shall adopt rules to implement this chapter, including but not limited to a rule relating to the method of identifying the educator or educators whose effectiveness ratings are affected by the measurement of learning or growth of a particular student. The department shall also adopt rules pertaining to the approval of performance evaluation and professional growth systems pursuant to section 13702. Rules adopted pursuant to this section are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. A-4. 20-A MRSA §15681, sub-§1, ¶D** is enacted to read:

D. To receive targeted educator evaluation funds, a school administrative unit must have or be in the process of developing a performance evaluation and professional growth system pursuant to chapter 508 and the rules adopted pursuant to that chapter.

**Sec. A-5. 20-A MRSA §15681, sub-§6** is enacted to read:

**6. Targeted funds for educator evaluation.** For educator evaluation funds beginning with the 2013-2014 school year, the commissioner shall calculate the amount available to assist school administrative units in developing and implementing performance evaluation and professional growth systems pursuant to chapter 508.

**Sec. A-6. Council created.** The Maine Educator Effectiveness Council, referred to in this section as "the council," is created to make recommendations regarding implementation of the Maine Revised Statutes, Title 20-A, chapter 508 to the Commissioner of Education and the Joint Standing Committee on Education and Cultural Affairs.

**1. Members.** The council consists of the Commissioner of Education or the commissioner's designee and the following members, appointed by the Commissioner of Education:

A. A member of the State Board of Education, nominated by the state board;

B. Four public school teachers, at least one of whom is a special education teacher, appointed from a list of names provided by the Maine Education Association;

C. A member representing educators in tribal schools in this State, appointed from a list of names provided by the respective tribal schools that are affiliated with Maine Indian Education;

D. Two public school administrators, appointed from a list of names provided by the Maine Principals' Association and the Maine School Superintendents Association;

E. Two members of school boards, appointed from a list of names provided by the Maine School Boards Association;

F. One faculty member representing approved educator preparation programs;

G. Two members of the business community; and

H. Two members of the general public with interest and experience in the education field.

The council must be cochaired by the Commissioner of Education and one other council member elected by the full membership of the council. The council may establish subcommittees and may appoint persons who are not members of the council to serve on the subcommittees as needed to conduct the council's work.

**2. Duties.** The council shall recommend standards for implementing a system of evaluation and support of teachers and principals consistent with the requirements of Title 20-A, chapter 508. The council shall:

A. Recommend a set of professional practice standards applicable to teachers and a set of professional practice standards applicable to principals;

B. Recommend a 4-level rating scale with clear and distinct definitions applicable to teachers and principals;

C. Recommend potential measures of student learning and growth;

D. Recommend the major components of an evaluation process, including but not limited to:

(1) Ongoing training to ensure that evaluators and teachers and principals have a full understanding of the evaluation system and its implementation;

(2) Methods of gathering evidence for the evaluation, which may include observation by supervisors and peers, self-reflection, student or parent surveys, analysis of artifacts and evidence portfolios;

(3) Methods of providing feedback to teachers and principals for formative evaluation purposes;

(4) Weighting of measures used in evaluating teachers and principals, which must provide that student learning and growth indicators inform a significant portion of the effectiveness rating;

(5) Methods for aligning district, school and classroom goals using the evaluation system; and

(6) Methods for linking summative effectiveness ratings to human capital decisions; and

E. Recommend a system of supports and professional development linked to effectiveness ratings for teachers and principals, including a process for developing and implementing a professional improvement plan.

**3. Report.** The Commissioner of Education shall submit a report regarding the work of the council to the Joint Standing Committee on Education and Cultural Affairs no later than November 1, 2012. The report must include the council's recommendations regarding implementation of the requirements set forth in Title 20-A, chapter 508 and recommendations regarding the continuing work of the council.

**4. Staff assistance.** The Department of Education shall provide staff assistance to the council. The department may seek and employ grant funds to provide additional assistance.

**5. Council continuation.** The council is authorized to continue meeting, if it so desires, 90 days after adjournment of the First Regular Session of 126th Legislature.

## PART B

**Sec. B-1. 20-A MRSA §13008** is enacted to read:

### **§13008. Educator preparation program data**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Educator preparation program" means a public or private baccalaureate-level or postbaccalaureate-level program approved by the state board to recommend graduates for certification pursuant to chapter 502 as prekindergarten to grade 12 teachers, educational specialists or school leaders.

B. "Program completer" means a person who, by successfully completing all of an educator preparation program's requirements, has qualified for a recommendation for certification as a prekindergarten to grade 12 teacher, an educational specialist or a school leader.

**2. Data collection.** The department shall collect data relating to educator preparation programs, including but not limited to the following information with respect to each educator preparation program:

A. The number of program completers;

B. The number of program completers who pass certification tests and the number of those who attain provisional licensure in the State;

C. The number of program completers who proceed from provisional licensure to professional licensure; and

D. The number of program completers who are teaching in schools in this State 3 and 5 years after they complete that educator preparation program.

**3. Report.** The department shall annually report the data collected under this section to the Governor, the state board and the joint standing committee of the Legislature having jurisdiction over education matters.

**Sec. B-2. 20-A MRSA §13011, sub-§6**, as enacted by PL 1989, c. 889, §8, is repealed and the following enacted in its place:

**6. Alternative pathways to certification.** The state board shall develop and adopt rules providing a method for a person who has not completed an approved educator preparation program as defined under section 13008 to obtain provisional educator certification through an alternative pathway that:

A. Is designed for candidates who can demonstrate subject matter competency that is directly related to the certificate endorsement being sought and obtained through prior academic achievement or work experience;

B. May feature an accelerated program of preparation;

C. Uses mentorship programs that partner teacher candidates with mentor teachers; and

D. Includes accountability provisions to ensure that teacher candidates demonstrate the knowledge and skills established pursuant to section 13012, subsection 2-B prior to issuance of a provisional teacher certificate.

**Sec. B-3. 20-A MRSA §13011, sub-§10**, as enacted by PL 2003, c. 445, §2, is amended to read:

**10. Conditional certificate; transitional endorsement; exception.** A conditional certificate is a certificate for teachers and educational specialists who have not met all of the requirements for a provisional or professional certificate. A school administrative unit may employ a conditionally certified teacher or educational specialist who is in the process of becoming professionally certified notwithstanding the availability of provisionally or professionally certified

teachers or educational specialists. Any amendment to the rules adopted pursuant to this chapter that revises the qualifications for a conditional certificate or transitional endorsement does not apply to a person who was issued a conditional certificate or transitional endorsement prior to or during the school year preceding the adoption of revisions to the rules as long as the holder of the conditional certificate or transitional endorsement annually completes the required course work and testing as determined by the department for the school year preceding the adoption of revised rules.

**Sec. B-4. 20-A MRSA §13012, sub-§2-A**, as enacted by PL 2001, c. 534, §2 and amended by PL 2005, c. 397, Pt. D, §3, is further amended to read:

**2-A. Qualifications.** State board rules governing the qualifications for a provisional teacher certificate must require that a certificate may only be issued to an applicant who meets the requirements of subsection 2-B, has successfully completed a student teaching experience of at least 15 weeks and:

A. For elementary school, has met academic and preprofessional requirements established by the state board for teaching at the elementary school level and has graduated from an accredited, degree-granting educational institution upon completion of:

- (1) A bachelor's degree from a 4-year accredited college or university;
- (2) A 4-year program in liberal arts and sciences; or
- (3) An approved 4-year teacher preparation program and has majored in the subject area to be taught or an interdisciplinary program in liberal arts;

B. For secondary school, has met academic and preprofessional requirements established by the state board for teaching at the secondary school level and has graduated from an accredited, degree-granting educational institution upon completion of:

- (1) A bachelor's degree from a 4-year accredited college or university;
- (2) A 4-year program in liberal arts and sciences; or
- (3) An approved 4-year teacher preparation program and has majored in the subject area to be taught;

C. Is otherwise qualified by having met separate educational criteria for specialized teaching areas, including, but not limited to, special education, home economics, agriculture, career and technical

education, art, music, business education, physical education and industrial arts, as established by the state board for teaching in these specialized areas; or

D. Has completed 6 credit hours of approved study within 5 years prior to application, has met entry-level standards and has held either a professional teacher certificate that expired more than 5 years prior to the application date or a provisional teacher certificate issued prior to July 1, 1988 that expired more than 5 years prior to the application date.

**Sec. B-5. Certification rules.** The State Board of Education shall amend its rules relating to certification of educators under the Maine Revised Statutes, Title 20-A, section 13012 to require that any person seeking an endorsement to teach kindergarten to grade 8 students must demonstrate proficiency in math and reading instruction, including evidence-based reading instruction. For the purposes of this section, "evidence-based reading instruction" means instructional practices that have been proven by systematic, objective, valid and peer-reviewed research to lead to predictable gains in reading achievement. The requirement must apply to all teachers and educational specialists, including teachers in special education and teachers of English language learners.

**Sec. B-6. Alternative certification working group.** The State Board of Education shall establish a working group to develop one or more alternative certification pathways that meet the standards set forth in the Maine Revised Statutes, Title 20-A, section 13011, subsection 6. Members of the State Board of Education shall participate in the working group, and the State Board of Education shall invite the participation of representatives of the Maine Education Association, the Maine School Superintendents Association, the Maine Principals' Association, the Maine School Boards Association, Maine Administrators of Services for Children with Disabilities and Maine Administrators of Career and Technical Education, representatives of approved educator preparation programs, parents and the business community and other interested parties. The working group shall submit a report describing one or more alternative certification pathways to the State Board of Education and the Commissioner of Education. The State Board of Education shall submit the report to the Joint Standing Committee on Education and Cultural Affairs no later than November 1, 2012. The report must include pathway descriptions, the working group's recommendations and any draft legislation or rules needed to implement the recommendations.

See title page for effective date.

**CHAPTER 636**  
**S.P. 642 - L.D. 1848**

**An Act To Expand the  
Notification Requirements of  
the Maine Certificate of Need  
Act of 2002**

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

**Sec. 1. 22 MRSA §337, sub-§5**, as amended by PL 2011, c. 424, Pt. D, §2 and affected by Pt. E, §1, is further amended to read:

**5. Public notice; public informational meeting.** Within 5 business days of the filing of a certificate by an applicant that a complete certificate of need application is on file with the department, public notice that the application has been filed and that a public informational meeting must be held regarding the application must be given by publication in a newspaper of general circulation in Kennebec County and in a newspaper published within the service area in which the proposed expenditure will occur. If an existing health care facility may close or lose bed capacity as a result of a proposal for which a certificate of need application has been filed, the department shall notify the municipal officers of the municipality in which that health care facility is located and the members of the State House of Representatives and the State Senate representing any part of that municipality. The notice must also be provided to all persons who have requested notification by means of asking that their names be placed on a mailing list maintained by the department for this purpose. This notice must include:

A. A brief description of the proposed expenditure or other action, including the name and location of any existing health care facility that may close or lose bed capacity as a result of a proposal for which a certificate of need application has been filed;

B. A description of the review process and schedule;

C. A statement that any person may examine the application, submit comments in writing to the department regarding the application and examine the entire record assembled by the department at any time from the date of publication of the notice until the application process is closed for comment; and

D. The time and location of the public informational meeting and a statement that any person may appear at the meeting to question the applicant regarding the project or the department regarding the conditions that the applicant must satisfy in order to receive a certificate of need for the project.

The department shall make an electronic or stenographic record of the public informational meeting.

A public informational meeting is not required for the simplified review and approval process in section 336.

**Sec. 2. Rules.** The Department of Health and Human Services shall adopt routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A regarding the notice required by Title 22, section 337, subsection 5.

See title page for effective date.

**CHAPTER 637**  
**S.P. 649 - L.D. 1864**

**An Act To Improve Efficiency  
Maine Trust Programs To  
Reduce Heating Costs and  
Provide Energy Efficient  
Heating Options for Maine's  
Consumers**

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

**Sec. 1. 35-A MRSA §3210, sub-§9, ¶B**, as amended by PL 2011, c. 314, §1, is further amended to read:

B. The commission shall collect alternative compliance payments made by competitive electricity providers and shall deposit all funds collected under this paragraph in the Energy Efficiency and Renewable Resource Fund established under section 10121, subsection 2 to be used to fund research, development and demonstration projects relating to renewable energy technologies and to fund rebates for cost-effective renewable energy technologies.

**Sec. 2. 35-A MRSA §10103, sub-§2**, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

**2. Governance; board.** The trust is created as a body corporate and politic and a public instrumentality of the State and is governed by the independent Efficiency Maine Trust Board, established in Title 5, section 12004-G, subsection 10-C, in accordance with this section.

A. The board consists of the following 9 voting members:

- (1) The director of the Governor's Office of Energy Independence and Security;
- (2) The director of the Maine State Housing Authority; and

(3) Seven members appointed by the Governor, reviewed by the joint standing committee of the Legislature having jurisdiction over energy matters and approved by the Senate. Among these 7 members must be persons who adequately represent the interests of commercial energy consumers, industrial energy consumers, small business energy consumers, residential energy consumers and low-income energy consumers; among these members must be persons with knowledge of and experience in financial matters and consumer advocacy and who possess substantial management expertise or knowledge of or experience with conservation fund programs, carbon reduction programs or energy efficiency or climate change policy. The requirements of this subparagraph may be met through the appointment of one or more persons who satisfy more than one of the requirements, as long as at any one time the 7 members include among them members who adequately represent the identified interests and who ~~posses~~ possess the required knowledge, expertise and experience.

Appointed trustees serve 3-year terms. If an appointed trustee is unable to complete the term, the Governor shall appoint a replacement for the remainder of the unexpired term.

B. The board shall elect a chair, a vice-chair, a secretary and a treasurer from among the members. Each officer serves for a one-year term and is eligible for reelection.

C. A majority of the trustees constitutes a quorum.

D. The board may elect an executive committee of not fewer than 5 trustees who, in intervals between meetings of the board, may transact such business of the trust as the board may authorize from time to time.

**Sec. 3. 35-A MRSA §10104, sub-§4, ¶B-1** is enacted to read:

B-1. In developing the triennial plan, the trust shall provide the joint standing committee of the Legislature having jurisdiction over energy matters an opportunity to provide input on the plan, which may occur at the same time the trust consults with other entities in the development of the plan.

**Sec. 4. 35-A MRSA §10104, sub-§12** is enacted to read:

**12. Budget transparency.** The trust shall provide on January 30th and July 30th of each year to the joint standing committee of the Legislature having jurisdiction over energy matters a report that includes

the trust's revenues and program expenses for the current fiscal year and program budgets for the next fiscal year for all the trust's funds and programs, whether or not subject to legislative allocation. The report must indicate any significant departures from the triennial plan approved pursuant to subsection 4 or an updated plan approved pursuant to subsection 6. After receiving a report, the joint standing committee of the Legislature having jurisdiction over energy matters may report out legislation relating to the trust. In accordance with applicable provisions of Title 5, chapter 149, the trust shall also prepare and submit to the State Budget Officer for inclusion in the budget of the State Government the amount of any funds administered by the trust that require legislative allocation in the budget. The joint standing committee of the Legislature having jurisdiction over energy matters shall make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs with regard to any proposed allocation of the trust's funds in any budget legislation. Within 30 days after enactment of legislation that includes an allocation of funds that affects the trust's triennial plan, the trust shall make any necessary adjustments to the triennial plan.

**Sec. 5. 35-A MRSA §10108**, as enacted by PL 2009, c. 372, Pt. B, §3, is repealed and the following enacted in its place:

**§10108. Liability**

**1. Bond.** All officers, directors, employees and other agents of the trust entrusted with the custody of funds of the trust or authorized to disburse the funds of the trust must be bonded either by a blanket bond or by individual bonds with a minimum limitation of \$100,000 coverage for each person covered by the bond or bonds, or equivalent fiduciary liability insurance, conditioned upon the faithful performance of their duties. The premiums for the bond or bonds must be paid out of the assets of the trust.

**2. Indemnification.** Each trustee must be indemnified by the trust against expenses actually and necessarily incurred by the trustee in connection with the defense of any action or proceeding in which the trustee is made a party by reason of being or having been a trustee and against any final judgment rendered against the trustee in that action or proceeding.

**Sec. 6. 35-A MRSA §10110, sub-§2, ¶K** is enacted to read:

K. The trust shall provide programs developed in partnership with energy providers, such as transmission and distribution utilities, to provide consumers with information on energy options to promote energy efficiency and increased use of alternative energy resources in the State.

**Sec. 7. 35-A MRSA §10111, sub-§2**, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

**2. Funding level.** The natural gas conservation fund, which is a nonlapsing fund, is established to carry out the purposes of this section. The commission shall assess each gas utility that serves at least 5,000 residential customers an amount that is no less than 3% of the gas utility's delivery revenues as defined by commission rule. In accordance with the triennial plan, the commission may assess a higher amount. All amounts collected under this subsection must be transferred to the natural gas conservation fund. Any interest on funds in the fund must be credited to the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section.

The assessments charged to gas utilities under this section are just and reasonable costs for rate-making purposes and must be reflected in the rates of gas utilities.

All funds collected pursuant to this section are collected under the authority and for the purposes of this section and are deemed to be held in trust for the purposes of benefiting natural gas consumers served by the gas utilities assessed under this subsection. In the event funds are not expended or contracted for expenditure within 2 years of being collected from consumers, the commission shall return the value of those funds to consumers by appropriate reductions in the assessment collected pursuant to this subsection.

Rules adopted by the commission under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 8. 35-A MRSA §10121**, as amended by PL 2011, c. 314, §§2 to 4, is further amended to read:

**§10121. Energy Efficiency and Renewable Resource Fund**

**1. Funding for energy efficiency and renewable resource research and development; community demonstration projects; rebates for cost-effective energy efficiency and renewable energy technologies.** The trust by rule shall establish and administer a program allowing retail consumers of electricity to make voluntary contributions to fund energy efficiency and renewable resource research and development, to fund community demonstration projects using energy efficiency and renewable energy technologies and to fund rebates for cost-effective energy efficiency and renewable energy technologies. The program must:

A. Include a mechanism for customers to indicate their willingness to make contributions;

B. Provide that transmission and distribution utilities collect and account for the contributions and forward them to the trust;

C. Provide for a distribution of the funds through a competitive bid process to the University of Maine System, the Maine Maritime Academy or the Maine Community College System for energy efficiency and renewable resource research and development;

D. Provide for a distribution of the funds through a competitive bid process to Maine-based non-profit organizations that qualify under the federal Internal Revenue Code, Section 501(c)(3), consumer-owned transmission and distribution utilities, community-based nonprofit organizations, community action programs, municipalities, quasi-municipal corporations or districts as defined in Title 30-A, section 2351, community-based renewable energy projects as defined in section 3602, subsection 1 and school administrative units as defined in Title 20-A, section 1 for community demonstration projects using energy efficiency and renewable energy technologies;

E. Provide for an annual distribution of 35% of the funds to the Maine Technology Institute to support the development and commercialization of energy efficiency and renewable energy technologies; and

F. Provide rebates for cost-effective energy efficiency and renewable energy technologies as determined by the trust.

**2. Fund established.** There is established the Energy Efficiency and Renewable Resource Fund, referred to in this section as "the fund." The fund is a nonlapsing fund administered by the trust. All funds collected by the trust pursuant to subsection 1 must be deposited in the fund for distribution by the trust in accordance with subsection 1. The trust may seek and accept funding for the program established pursuant to subsection 1 from other sources, public or private. Any funds accepted for use in the program established pursuant to subsection 1 must be deposited in the fund. Funds not spent in any fiscal year remain in the fund to be used for the purposes of this section. Any interest earned on funds in the fund must be credited to the fund.

The trust may allocate funds pursuant to subsection 1, paragraphs C, D and F from the fund to most effectively meet the objectives of the triennial plan pursuant to section 10104, subsection 4.

**3. Report.** The trust shall report by December 1st of each year to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters on the fund. The report must include:

A. A description of actions taken by the trust pursuant to subsections 1 and 2 during the prior 12 months;

B. An accounting of total deposits into and expenditures from the fund during the prior 12 months; and

C. A description of any research and development or community demonstration project that received a distribution from the fund during the prior 12 months, including its objectives, current status and results.

**4. Rulemaking.** The trust shall adopt rules to implement this section. The rules must include, but are not limited to:

A. Selection criteria for the competitive bid process pursuant to subsection 1, paragraphs C and D, including, but not limited to, the cost-effectiveness of the project or development and the likelihood that the renewable energy technology will be adopted on a broader scale in this State; and

B. Qualification criteria for rebates for energy efficiency and renewable energy technologies pursuant to subsection 1, paragraph F, including, but not limited to, cost-effectiveness and quality assurance requirements.

Rules adopted under this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 9. Report.** The Governor's Office of Energy Independence and Security or its successor shall provide to the joint standing committee of the Legislature having jurisdiction over energy matters by January 15, 2013 a report of its assessment of the Efficiency Maine Trust's effectiveness in delivering natural gas conservation programs pursuant to the Maine Revised Statutes, Title 35-A, Section 10111. The assessment must include, but need not be limited to:

1. The annual cost of the natural gas system benefit charge on the average residential, commercial and industrial customer;

2. The number of programs operated by the Efficiency Maine Trust that are designed to benefit natural gas customers in the service territory of the natural gas utility that is assessed the natural gas system benefit charge; and

3. The proportion of the natural gas system benefit charge that is delivered as benefits to customers and the proportion that is expended on administrative costs.

**Sec. 10. Efficient heating equipment report.** The Efficiency Maine Trust shall report to the joint standing committee of the Legislature having

jurisdiction over energy matters by March 31, 2013 its findings and recommendations relating to efficient heating options for residential and small business consumers. The report must be based on the results of the Efficiency Maine Trust's competitive heating equipment innovation project, low-income heating equipment installations and any other relevant research or activities conducted by or available to the trust. The report must include information on the cost-effectiveness of different heating equipment options and whether and to what degree the Efficiency Maine Trust's programs are assisting consumers in this State in improving the efficiency of their heating systems. The report must include a description of what constitutes efficient electric heating equipment and provide any findings of the Efficiency Maine Trust regarding the effectiveness of emerging electric technologies, as well as any findings regarding efficient use of oil, gas, wood or other fuels. The report must identify any market barriers or impediments to consumers installing more efficient heating systems, as well as any administrative, funding or policy barriers affecting the Efficiency Maine Trust's ability to assist consumers in installing efficient heating systems. The report must specifically identify options for any changes in statute or rules needed to provide loans or utility on-bill financing to consumers for efficient heating equipment.

**Sec. 11. Pilot program.** Notwithstanding any other provision of law, in accordance with this section, a transmission and distribution utility may develop and implement, upon approval of the Public Utilities Commission, a pilot program within its service territory to measure the effectiveness of efficient electric heating systems and may advertise the availability of its pilot program to its customers.

**1. Approval; rate-making treatment.** A transmission and distribution utility must submit its proposed pilot program to the Public Utilities Commission for approval. The commission shall examine the proposal and, if it finds the proposal is reasonably designed and consistent with the provisions of this section, shall approve the pilot program. For rate-making purposes under the Maine Revised Statutes, Title 35-A, chapter 3, the commission shall treat the activities of a transmission and distribution utility under an approved pilot program as regulated activities of the utility.

**2. Program elements.** Under an approved pilot program, a transmission and distribution utility:

A. May provide efficient electric heat pumps or electric thermal storage units to up to 500 residential or small business customers within its service territory;

B. Must determine that the overall energy costs to each customer participating in the pilot program

will decrease as a result of participation in the pilot program, as measured by the customer's overall energy costs, regardless of the source of energy, and the financing costs associated with participation in the pilot program;

C. May provide on-bill financing to customers participating in the pilot program on terms and conditions and cost of capital approved by the Public Utilities Commission. The terms of any financing may not exceed 5 years and any delinquency or bad debt expenses must be recovered through the pilot program, as approved by the commission, and may not be recovered from the transmission and distribution utility's ratepayers;

D. May offer rebates to participating customers to be applied to the total installation cost of the efficient electric heat pumps or electric thermal storage units; and

E. May enroll customers in the pilot program only until December 31, 2013.

**3. Measurement and analysis; report.** Each transmission and distribution utility that implements a pilot program under this section shall measure and report to the Public Utilities Commission by November 15, 2013 on:

A. The overall reduction in energy use by participating customers;

B. The reduction in energy costs for participating customers;

C. The repayment experience of participating customers;

D. The effectiveness of the heating equipment installed under the pilot program;

E. The extent to which participating customers also took advantage of any programs offered by the Efficiency Maine Trust; and

F. The effect of the program on the electric grid, including effects during off-peak and peak times and seasons.

The Public Utilities Commission shall analyze the reports submitted under this subsection and shall submit those reports, together with any analyses, findings or recommendations of the commission related to the reports and the pilot programs to the joint standing committee of the Legislature having jurisdiction over energy matters by January 15, 2014.

See title page for effective date.

## CHAPTER 638

### S.P. 569 - L.D. 1670

#### An Act Relating to Rating on the Basis of Group Size in the Small Group Health Insurance Market

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

**Sec. 1. 24-A MRSA §2808-B, sub-§2, ¶C,** as amended by PL 2011, c. 364, §10, is further amended to read:

C. A carrier may vary the premium rate due to occupation and industry, family membership, ~~and participation in wellness programs and group size~~ to the extent permitted by the federal Affordable Care Act. The superintendent may adopt rules setting forth appropriate methodologies regarding rate discounts for participation in wellness programs and rating for occupation and industry ~~and group size~~ pursuant to this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 24-A MRSA §2808-B, sub-§2, ¶D,** as amended by PL 2011, c. 364, §11, is further amended to read:

D. A carrier may vary the premium rate due to ~~age~~ group size and tobacco use only under the following schedule and within the listed percentage bands.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1993 and July 14, 1994, the premium rate may not deviate above or below the community rate filed by the carrier by more than 50%.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1994 and July 14, 1995, the premium rate may not deviate above or below the community rate filed by the carrier by more than 33%.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between July 15, 1995 and September 30, 2011, the premium rate may not deviate above or below the community rate filed by the carrier by more than 20%.

(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between October 1, 2011 and ~~December 31~~ September 30, 2012, the maximum rate differential due to age filed by the carrier as determined by ratio is 2 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between ~~January 1, 2013~~ October 1, 2012 and December 31, 2013, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 3 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(7) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2015 and December 31, 2015, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(8) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2016, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(9) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after October 1, 2011, the maximum rate dif-

ferential due to tobacco use filed by the carrier as determined by ratio is 1.5 to 1.

**Sec. 3. 24-A MRSA §2808-B, sub-§2, ¶H,** as amended by PL 2011, c. 364, §13, is further amended to read:

H. A carrier that offered small group health plans prior to October 1, 2011 may close its small group book of business sold prior to October 1, 2011 and may establish a separate community rate for eligible groups applying for coverage under a small group health plan on or after October 1, 2011. If a carrier closes its small group book of business as permitted under this paragraph, the carrier may vary the premium rate for that closed book of business only as permitted in this paragraph and paragraphs C and C-1.

(1) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between October 1, 2011 and ~~December 31~~ September 30, 2012, the maximum rate differential due to age filed by the carrier as determined by ratio is 2 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(2) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between ~~January 1, 2013~~ October 1, 2012 and December 31, 2013, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(3) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 3 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2015 and December 31, 2015, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining

rates for an attained age of less than 19 years of age or more than 65 years of age.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2016, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after October 1, 2011, the maximum rate differential due to tobacco use filed by the carrier as determined by ratio is 1.5 to 1.

See title page for effective date.

## CHAPTER 639

### H.P. 1295 - L.D. 1760

#### An Act To Ensure Notification to Victims of Domestic Violence, Sexual Assault and Stalking When Defendants Are Released on Bail

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

Sec. 1. 17-A MRSA §1175-A is enacted to read:

#### §1175-A. Notification of defendant's release on bail

1. In the case of an alleged crime involving domestic violence, sexual assault under chapter 11 or stalking, the arresting law enforcement officer shall obtain the victim's contact information and provide that information to the jail to which the defendant is delivered.

2. In a case of an alleged crime involving domestic violence, sexual assault under chapter 11 or stalking, a jail shall notify a victim of a defendant's release on preconviction bail as soon as possible but no later than one hour after the defendant's release. If the defendant is released on bail before being delivered to a jail, the arresting law enforcement agency shall notify the victim as provided in this section.

3. Notification under subsection 2 must be made by a telephone call either directly to the victim or as provided in subsection 5. In the event that the jail has not succeeded in contacting the victim after the jail has exercised due diligence in attempting to contact the

victim, notification of the defendant's release must be made to the law enforcement agency that investigated the report of domestic violence, sexual assault or stalking. That law enforcement agency shall make a reasonable attempt to notify the victim of the defendant's release on preconviction bail.

4. Notwithstanding subsection 2, a victim of an alleged crime described in subsection 1 may request in writing that the jail or arresting law enforcement agency not notify the victim of the defendant's release on preconviction bail.

5. Notification under this section to an adult victim must be made to the victim. Notification to a minor victim must be made to an adult who is the victim's parent or legal guardian or, if a parent or legal guardian is not available, to another immediate family member of the victim unless the jail or arresting law enforcement agency reasonably believes that it is in the best interest of the minor victim to be notified directly.

6. Neither the failure to perform the requirements of this section nor compliance with this section subjects the State, the arresting law enforcement agency, the jail where the defendant was delivered, the Department of Corrections or officers or employees of the law enforcement agency, jail or Department of Corrections to liability in a civil action.

For purposes of this section, "crime involving domestic violence" has the same meaning as in Title 15, section 1003, subsection 3-A and includes those crimes under section 152, subsection 1, paragraph A, section 208 and section 208-B when the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4.

See title page for effective date.

## CHAPTER 640

### H.P. 1381 - L.D. 1867

#### An Act To Protect Victims of Domestic Violence

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

#### PART A

Sec. A-1. 15 MRSA §1023, sub-§4, ¶B-1 is enacted to read:

B-1. Set preconviction bail for a defendant alleged to have committed any of the following offenses against a family or household member as defined in Title 19-A, section 4002, subsection 4:

(1) A violation of a protection from abuse order provision set forth in Title 19-A, sec-

tion 4006, subsection 5, paragraph A, B, C, D, E or F or Title 19-A, section 4007, subsection 1, paragraph A, A-1, A-2, B, C, D, E or G;

(2) Any Class A, B or C crime under Title 17-A, chapter 9;

(3) Any Class A, B or C sexual assault offense under Title 17-A, chapter 11;

(4) Kidnapping under Title 17-A, section 301;

(5) Criminal restraint under Title 17-A, section 302, subsection 1, paragraph A, subparagraph (4) or Title 17-A, section 302, subsection 1, paragraph B, subparagraph (2);

(6) Domestic violence stalking that is a Class C crime under Title 17-A, section 210-C, subsection 1, paragraph B;

(7) Domestic violence criminal threatening that is a Class C crime under Title 17-A, section 209-A, subsection 1, paragraph B or domestic violence criminal threatening that is elevated to a Class C crime by the use of a dangerous weapon under Title 17-A, section 1252, subsection 4;

(8) Domestic violence terrorizing that is a Class C crime under Title 17-A, section 210-B, subsection 1, paragraph B or domestic violence terrorizing that is elevated to a Class C crime by the use of a dangerous weapon under Title 17-A, section 1252, subsection 4; or

(9) Domestic violence reckless conduct that is a Class C crime under Title 17-A, section 211-A, subsection 1, paragraph B or domestic violence reckless conduct that is elevated to a Class C crime by the use of a dangerous weapon under Title 17-A, section 1252, subsection 4;

**Sec. A-2. 15 MRSA §1023, sub-§4, ¶C**, as amended by PL 2011, c. 341, §2, is further amended to read:

C. In a case involving domestic violence, set preconviction bail for a defendant before making a good faith effort to obtain from the arresting officer, the responsible prosecutorial office, a jail employee or other law enforcement officer:

- (1) A brief history of the alleged abuser;
- (2) The relationship of the parties;
- (3) The name, address, phone number and date of birth of the victim, ~~and~~

(4) Existing conditions of protection from abuse orders, conditions of bail and conditions of probation; ~~and~~

(5) Information about the severity of the alleged offense;

**Sec. A-3. 15 MRSA §1095, sub-§2**, as amended by PL 2011, c. 341, §4, is further amended to read:

**2. Arrest.** Prior to the filing of a motion to revoke a defendant's preconviction bail under subsection 1, a law enforcement officer when requested by the attorney for the State; may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, has violated a condition of preconviction bail or has been charged with a crime allegedly committed while released on preconviction bail. A defendant under arrest pursuant to this section must be brought before any judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing preconviction bail order should be modified or whether the defendant should be committed without bail pending the bail revocation hearing. If either the underlying crime or the new criminal conduct alleged is an offense specified in section 1023, subsection 4, paragraph B-1, the judge or justice shall order that the defendant be committed without bail pending the bail revocation hearing, unless the judge or justice makes findings on the record that there are conditions of release that will reasonably ensure that the defendant will not commit new crimes while out on bail, that will reasonably ensure the defendant's appearance at the time and place required and that will ensure the integrity of the judicial process and the safety of others in the community pending the bail revocation hearing. A copy of the motion for revocation must be furnished to the defendant prior to the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.

**Sec. A-4. 15 MRSA §1097, sub-§2-A** is enacted to read:

**2-A. Crimes involving domestic violence.** If the underlying crime is an offense specified in section 1023, subsection 4, paragraph B-1 and the new conduct found by the court pursuant to section 1096 involves new allegations of domestic violence or contact with a victim or witness in the underlying case, the judge or justice shall issue an order denying bail, unless the judge or justice makes the findings on the record required by both subsections 1 and 2. The judge or justice shall issue an order denying bail if there has been a previous revocation of preconviction bail pursuant to section 1096.

## PART B

**Sec. B-1. 17-A MRSA §207-A, sub-§1, ¶B,** as enacted by PL 2007, c. 436, §1 and affected by §7, is amended to read:

B. The person violates paragraph A and at the time of the offense:

(1) ~~The person has~~ Has one or more prior convictions for violating paragraph A or for violating section 209-A, 210-B, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 209-A, 210-B, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

**Sec. B-2. 17-A MRSA §208, sub-§1, ¶C,** as amended by PL 1981, c. 317, §6, is further amended to read:

C. Bodily injury to another under circumstances manifesting extreme indifference to the value of human life. Such circumstances include, but are not limited to, the number, location or nature of the injuries, the manner or method inflicted, ~~or~~ the observable physical condition of the victim or the use of strangulation. For the purpose of this paragraph, "strangulation" means the intentional impeding of the breathing or circulation of the blood of another person by applying pressure on the person's throat or neck.

**Sec. B-3. 17-A MRSA §209-A, sub-§1, ¶B,** as enacted by PL 2007, c. 436, §2 and affected by §7, is amended to read:

B. The person violates paragraph A and at the time of the offense:

(1) ~~The person has~~ Has one or more prior convictions for violating paragraph A or for violating section 207-A, 210-B, 210-C or 211-A or one or more prior convictions for

engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 210-B, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

**Sec. B-4. 17-A MRSA §210-B, sub-§1, ¶B,** as enacted by PL 2007, c. 436, §3 and affected by §7, is amended to read:

B. The person violates paragraph A and at the time of the offense:

(1) ~~The person has~~ Has one or more prior convictions for violating paragraph A or for violating section 207-A, 209-A, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 209-A, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

**Sec. B-5. 17-A MRSA §210-C, sub-§1, ¶B,** as enacted by PL 2007, c. 436, §4 and affected by §7, is amended to read:

B. The person violates paragraph A and at the time of the offense:

- (1) ~~The person has~~ Has one or more prior convictions for violating paragraph A or for violating section 207-A, 209-A, 210-B or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 209-A, 210-B or 211-A in another jurisdiction;
- (2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or
- (3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

**Sec. B-6. 17-A MRSA §211-A, sub-§1, ¶B,** as enacted by PL 2007, c. 436, §5 and affected by §7, is amended to read:

B. The person violates paragraph A and at the time of the offense:

- (1) ~~The person has~~ Has one or more prior convictions for violating paragraph A or for violating section 207-A, 209-A, 210-B or 210-C or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 209-A, 210-B or 210-C in another jurisdiction;
- (2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or
- (3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as de-

defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

**Sec. B-7. 17-A MRSA §1201, sub-§1, ¶A-1,** as amended by PL 2011, c. 465, §7, is further amended to read:

A-1. The conviction is for a Class D or Class E crime other than:

- (1) A Class D or Class E crime relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the defendant had committed a Class A, Class B or Class C crime in the course of that criminal episode and, as agreed upon in writing by the parties and found by the court, the defendant has no prior conviction for murder or for a Class A, Class B or Class C crime and has not been placed on probation pursuant to this subparagraph on any prior occasion;
- (2) A Class D crime that the State pleads and proves was committed against a family or household member or a dating partner under chapter 9 or 13 or section 554, 555 or 758. As used in this subparagraph, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4; "dating partner" has the same meaning as in Title 19-A, section 4002, subsection 3-A;
- (2-A) A Class D crime under Title 5, section 4659, subsection 1, Title 15, section 321, subsection 6 or Title 19-A, section 4011, subsection 1;
- (3) A Class D or Class E crime in chapter 11 or 12;
- (4) A Class D crime under section 210-A;
- (4-A) A Class E crime under section 552;
- (5) A Class D or Class E crime under section 556, section 854, excluding subsection 1, paragraph A, subparagraph (1), or section 855;
- (6) A Class D crime in chapter 45 relating to a schedule W drug;
- (7) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A, paragraph B;
- (8) A Class D crime under Title 17, section 1031; ~~or~~
- (9) A Class D crime under Title 17-A, section 1119, subsection 1; ~~or~~

(10) A Class E crime under Title 15, section 1092, subsection 1, paragraph A, if the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) and the underlying crime involved domestic violence.

#### PART C

**Sec. C-1. 19-A MRSA §4002, sub-§4**, as amended by PL 2007, c. 518, §8, is further amended to read:

**4. Family or household members.** "Family or household members" means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, natural parents of the same child, adult household members related by consanguinity or affinity or minor children of a household member when the defendant is an adult household member and, for the purposes of Title 15, section 1023, subsection 4, paragraph B-1, this chapter and Title 17-A, sections 15, 207-A, 209-A, 210-B, 210-C, 211-A, 1201, 1202 and 1253 only, includes individuals presently or formerly living together and individuals who are or were sexual partners. Holding oneself out to be a spouse is not necessary to constitute "living as spouses." For purposes of this subsection, "domestic partners" means 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

#### PART D

**Sec. D-1. 25 MRSA §2803-B, sub-§1, ¶D**, as amended by PL 2011, c. 265, §2, is further amended to read:

D. Domestic violence, which must include, at a minimum, the following:

- (1) A process to ensure that a victim receives notification of the defendant's release from jail;
- (2) A process for the collection of information regarding the defendant that includes the defendant's previous history, the parties' relationship, whether the commission of an alleged crime included the use of strangulation as defined in Title 17-A, section 208, subsection 1, paragraph C, the name of the victim and a process to relay this information to a bail commissioner before a bail determination is made;
- (3) A process for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a possible neutral location for retrieval, the presence of at least one law enforcement officer during the retrieval and giving the victim

the option of at least 24 hours notice to each party prior to the retrieval; and

- (4) Standard procedures to ensure that protection from abuse orders issued under Title 19-A, section 4006 or 4007 are served on the defendant as quickly as possible;

#### PART E

**Sec. E-1. Report.** The judicial branch shall study the application of the provisions of this Act. The study must include, but is not limited to, information, if available, about the number of domestic violence cases in which preconviction bail for a person arrested for a domestic violence offense listed under the Maine Revised Statutes, Title 15, section 1023, subsection 4, paragraph B-1 was set or denied by a judge or justice without prior review by a bail commissioner. The judicial branch shall report the results of the study to the joint standing committee of the Legislature having jurisdiction over criminal justice matters no later than January 30, 2013. The joint standing committee of the Legislature having jurisdiction over criminal justice matters may submit legislation to the First Regular Session of the 126th Legislature that is related to the report.

See title page for effective date.

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#### CHAPTER 641

**S.P. 671 - L.D. 1894**

##### **An Act To Restore Departmental Management over Costs of State-paid Child Care**

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

**Sec. 1. 22 MRSA §8308**, as enacted by PL 2007, c. 672, §1, is repealed.

See title page for effective date.

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#### CHAPTER 642

**S.P. 680 - L.D. 1908**

##### **An Act To Implement the Recommendations of the Stakeholder Group To Review the Maine State Grant Program**

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

**Sec. 1. 20-A MRSA §11611, sub-§5**, as amended by PL 1991, c. 582, §1 and affected by §3, is further amended to read:

**5. Institution of higher education.** "Institution of higher education" means an institution of higher education located within this State, ~~within another state with which this State has a reciprocal agreement or within another state that permits portability. The institutions shall meet that meets~~ the requirements of and ~~conform conforms~~ to the definitions contained in the federal Higher Education Act of 1965, Section 1201, as amended, United States Code, Title 20, Section 1141; and the federal Higher Education Act of 1965, Section 491, as amended, United States Code, Title 20, Section 1088; and the regulations, guidelines and procedures promulgated by the Secretary of Education and published in the Federal Register pursuant to these sections of law.

**Sec. 2. 20-A MRSA §11611, sub-§6**, as enacted by PL 1991, c. 582, §2 and affected by §3, is repealed.

**Sec. 3. 20-A MRSA §11614, sub-§2**, as amended by PL 2001, c. 70, §8, is further amended to read:

**2. Minimum amount.** It is the intent of the Legislature that grants awarded under this chapter, except as provided in subsections 4, 5 and 6, may not be less than: \$1,000 for students attending public institutions of higher education within the State; \$1,250 for students attending private institutions of higher education within the State; \$500 for students attending public institutions of higher education outside the State; and \$1,000 for students attending private institutions of higher education outside the State. ~~Amounts less than the minimum amounts required by this subsection may be awarded to meet needs as determined under section 11613. The authority may not grant awards of less than \$200 to a full time student. The authority may establish by rule increased grant amounts for students attending their 2nd, 3rd and 4th years, or the equivalents thereof, at institutions of higher education. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.~~

**Sec. 4. 20-A MRSA §11614, sub-§7**, as amended by PL 2001, c. 70, §8, is further amended to read:

**7. Part-time students.** The authority may allocate up to 5% of the Maine State Grants grants to eligible part-time students. The authority must establish eligibility criteria by rulemaking pursuant to the Maine Administrative Procedure Act.

**Sec. 5. 20-A MRSA §11614, sub-§8** is enacted to read:

**8. Exception for certain public institutions outside the State.** The authority may adopt rules establishing criteria and an application process for making grant awards to students who wish to pursue a course of study available only at a public institution outside the State as part of the New England regional student program offered by the New England Board of Higher Education established by Title 5, section 12004-K, subsection 2. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 6. 20-A MRSA §11616, sub-§2**, as amended by PL 2001, c. 70, §9, is further amended to read:

**2. Period of study.** An eligible ~~full-~~ full-time or part-time student may receive a grant for a period not to exceed 150% of the published length of the program in which the student is enrolled 10 semesters or the equivalent thereof at the institution that the student is attending, ~~measured in academic years, academic terms, credit hours attempted or clock hours completed, as appropriate.~~

**Sec. 7. 20-A MRSA §11617, sub-§3** is enacted to read:

**3. Decennial review.** The authority shall, by January 1, 2021, and every 10 years thereafter, conduct a review of the Maine State Grant Program. The authority shall establish a stakeholder group, through a partnership with other appropriate entities, to work together on the review. The review must include, but is not limited to, the following:

A. A review of the history and efficacy of the program and any necessary changes to the program;

B. Ideas to enhance the program in light of current and future higher education trends and needs;

C. Any recommendations on state funding for the program in light of trends in higher education costs and federal and private sector funding for student financial aid; and

D. Current and future grant and financial aid needs of students and families in the State.

The authority shall submit a written report of the findings of the decennial review by the January 1st the decennial review is due, along with any proposed legislation, to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs.

See title page for effective date.

**CHAPTER 643  
H.P. 960 - L.D. 1314**

**An Act To Standardize the  
Definition of "Independent  
Contractor"**

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

**Sec. 1. 1 MRSA §1012, sub-§9**, as amended by PL 1991, c. 885, Pt. E, §1 and affected by §47, is further amended to read:

**9. Self-employed.** "Self-employed" means that the person qualifies as an independent contractor under Title 39-A, section 102, subsection ~~43~~ 13-A.

**Sec. 2. 5 MRSA §19, sub-§1, ¶J**, as amended by PL 1991, c. 885, Pt. E, §6 and affected by §47, is further amended to read:

J. "Self-employed" means that the person qualifies as an independent contractor under Title 39-A, section 102, subsection ~~43~~ 13-A.

**Sec. 3. 26 MRSA §591, sub-§2**, as amended by PL 1985, c. 112, §1, is further amended to read:

**2. Employer.** "Employer" means an individual, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy and any common carrier by rail, motor, water, air or express company doing business in or operating within the State; and

**Sec. 4. 26 MRSA §591, sub-§3** is enacted to read:

**3. Independent contractor.** "Independent contractor" means an individual who qualifies as an independent contractor under section 1043, subsection 11, paragraph E.

**Sec. 5. 26 MRSA §591-A** is enacted to read:  
**§591-A. Employee misclassification**

An employer that intentionally or knowingly misclassifies an employee as an independent contractor commits a civil violation for which a fine of not less than \$2,000 and not more than \$10,000 per violation may be adjudged.

A determination of misclassification of a worker as an independent contractor may result in the assessment of penalties under section 1051, 1082 or 1225 or Title 39-A, section 105-A or 324.

**Sec. 6. 26 MRSA §1043, sub-§11, ¶E**, as amended by PL 2011, c. 292, §1, is repealed and the following enacted in its place:

E. Services performed by an individual for remuneration are considered to be employment subject to this chapter unless it is shown to the satisfac-

tion of the bureau that the individual is free from the essential direction and control of the employing unit, both under the individual's contract of service and in fact, and the employing unit proves that the individual meets all of the criteria in subparagraph (1) and criteria of at least 3 divisions of subparagraph (2). In order for an individual to be considered an independent contractor:

(1) The following criteria must be met:

(a) The individual has the essential right to control the means and progress of the work except as to final results;

(b) The individual is customarily engaged in an independently established trade, occupation, profession or business;

(c) The individual has the opportunity for profit and loss as a result of the services being performed for the other individual or entity;

(d) The individual hires and pays the individual's assistants, if any, and, to the extent such assistants are employees, supervises the details of the assistants' work; and

(e) The individual makes the individual's services available to some client or customer community even if the individual's right to do so is voluntarily not exercised or is temporarily restricted; and

(2) At least 3 of the following criteria must be met:

(a) The individual has a substantive investment in the facilities, tools, instruments, materials and knowledge used by the individual to complete the work;

(b) The individual is not required to work exclusively for the other individual or entity;

(c) The individual is responsible for satisfactory completion of the work and may be held contractually responsible for failure to complete the work;

(d) The parties have a contract that defines the relationship and gives contractual rights in the event the contract is terminated by the other individual or entity prior to completion of the work;

(e) Payment to the individual is based on factors directly related to the work performed and not solely on the amount of time expended by the individual;

(f) The work is outside the usual course of business for which the service is performed; or

(g) The individual has been determined to be an independent contractor by the federal Internal Revenue Service.

**Sec. 7. 39-A MRSA §102, sub-§13,** as amended by PL 2009, c. 452, §4, is repealed.

**Sec. 8. 39-A MRSA §102, sub-§13-A** is enacted to read:

**13-A. Independent contractor.** A person who performs services for remuneration is presumed to be an employee unless the employing unit proves that the person is free from the essential direction and control of the employing unit, both under the person's contract of service and in fact and the person meets specific criteria. In order for a person to be an independent contractor:

A. The following criteria must be met:

(1) The person has the essential right to control the means and progress of the work except as to final results;

(2) The person is customarily engaged in an independently established trade, occupation, profession or business;

(3) The person has the opportunity for profit and loss as a result of the services being performed for the other individual or entity;

(4) The person hires and pays the person's assistants, if any, and, to the extent such assistants are employees, supervises the details of the assistants' work; and

(5) The person makes the person's services available to some client or customer community even if the person's right to do so is voluntarily not exercised or is temporarily restricted; and

B. At least 3 of the following criteria must be met:

(1) The person has a substantive investment in the facilities, tools, instruments, materials and knowledge used by the person to complete the work;

(2) The person is not required to work exclusively for the other individual or entity;

(3) The person is responsible for satisfactory completion of the work and may be held contractually responsible for failure to complete the work;

(4) The parties have a contract that defines the relationship and gives contractual rights in the event the contract is terminated by the

other individual or entity prior to completion of the work;

(5) Payment to the person is based on factors directly related to the work performed and not solely on the amount of time expended by the person;

(6) The work is outside the usual course of business for which the service is performed; or

(7) The person has been determined to be an independent contractor by the federal Internal Revenue Service.

**Sec. 9. 39-A MRSA §105-A, sub-§1, ¶B,** as enacted by PL 2009, c. 452, §5, is repealed and the following enacted in its place:

B. "Construction subcontractor" means an independent contractor if the construction subcontractor meets the definition of independent contractor in section 102, subsection 13-A.

**Sec. 10. 39-A MRSA §114,** as enacted by PL 2011, c. 176, §1, is repealed.

**Sec. 11. 39-A MRSA §401, sub-§1,** as amended by PL 2001, c. 235, §§2 and 3, is further amended to read:

**1. Private employers.** Every private employer, including an independent contractor who hires and pays employees, is subject to this Act and shall secure the payment of compensation in conformity with this section and sections 402 to 407 with respect to all employees, subject to the provisions of this section. Unless employed by a private employer, a person engaged in harvesting forest products is subject to this Act and shall secure the payment of compensation in conformity with this section and sections 402 to 407 with respect to that person individually if that person is an employee as defined in section 102, subsection 11, paragraph B-1.

A private employer who has not secured the payment of compensation under this section and sections 402 to 407 is not entitled, in a civil action brought by an employee or the employee's representative for personal injuries or death arising out of and in the course of employment, to the defense set forth in section 103. The employee of any such employer may, instead of bringing a civil action, claim compensation from the employer under this Act.

The following employers are not liable under this section for securing the payment of compensation in conformity with this section and sections 402 to 407 with respect to the employees listed, nor deprived of the defenses listed in section 103:

A. Employers of employees engaged in domestic service;

B. Employers of employees engaged in agriculture or aquaculture as seasonal or casual laborers, if the employer maintains coverage by an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$5,000.

(1) As used in this subsection, "casual" means occasional or incidental. "Seasonal" refers to laborers engaged in agricultural or aquacultural employment beginning at or after the commencement of the planting or seeding season and ending at or before the completion of the harvest season; and

C. Employers of agricultural or aquacultural laborers, if:

(3) The employer has 6 or fewer agricultural or aquacultural laborers or the employer has more than 6 such laborers but the total number of hours worked by all such laborers in a week does not exceed 240 and has not exceeded 240 at any time during the 52 weeks immediately preceding the injury; and

(4) The employer maintains an employer's liability insurance policy with total limits of not less than \$100,000 multiplied by the number of full-time equivalent agricultural or aquacultural laborers employed by that employer and medical payment coverage of not less than \$5,000.

For purposes of this paragraph, seasonal and casual workers, immediate family members of unincorporated employers and immediate family members of bona fide owners of at least 20% of the voting stock of an incorporated employer are not considered agricultural or aquacultural laborers. "Immediate family members" means parents, spouses, brothers, sisters and children.

The burden of proof to establish an exempt status under this subsection is on the employer claiming the exemption.

**Sec. 12. 39-A MRSA §401, sub-§4**, as amended by PL 1999, c. 364, §6, is further amended to read:

**4. Liability of landowner.** A landowner subject to this Act who contracts to have wood harvested from the landowner's property by a contractor who, as an employer, is subject to this Act and who has not complied with the provisions of this section and who does not comply with the provisions of this section prior to the date of an injury or death for which a claim is made is liable to pay to any person employed by the contractor in the execution of the work any compensation under this Act that the landowner would have been liable to pay if that person had been immediately employed by the landowner.

A landowner is not liable for compensation if at the time the landowner enters into the contract with the contractor, the landowner applies for and receives a predetermination of the independent status of the contractor as set forth in section 105, the landowner requests and receives a certificate of independent status, issued by the board on an annual basis to a contractor, certifying that the contractor harvests forest products in a manner that would not make the contractor an employee of the landowner or the landowner requests and receives a certificate of insurance, issued by the contractor's insurance carrier, certifying that the contractor has obtained the required coverage and indicating the effective dates of the policy, and if the landowner requests and receives at least annually similar certificates indicating continuing coverage during the performance of the work. A landowner who receives a predetermination of the contractor's status as independent contractor or a certificate of independent status is only relieved of liability under this paragraph if the contract for wood harvesting expressly states that the independent contractor will not hire any employees to assist in the wood harvesting without first providing the required certificate of insurance to the landowner.

Notwithstanding section 105, subsection 1, paragraph A, a predetermination under section 105 related only to a person engaged in harvesting forest products is a conclusive presumption that the determination is correct and section 105, subsection 2 does not apply to that determination. Each party involved in or affected by the predetermination must be provided information on the workers' compensation laws and the effect of independent contractor status in relation to those laws. A predetermination under section 105 related to a person engaged in harvesting forest products is effective for one calendar year or the duration of the contract, whichever is shorter.

A landowner required to pay compensation under this section is entitled to be indemnified by the contractor and may recover the amount paid in an action against that contractor. A landowner may demand that the contractor enter into a written agreement to reimburse the landowner for any loss incurred under this section due to a claim filed for compensation and other benefits. The employee is not entitled to recover at common law against the landowner for any damages arising from such injury if the employee takes compensation from that landowner.

Landowners willfully acting to circumvent the provisions of this section by using coercion, intimidation, deceit or other means to encourage persons who would otherwise be considered employees within the meaning of this Act to pose as contractors for the purpose of evading this section are liable subject to the provisions of section 324, subsection 3. Nothing in this section may be construed to prohibit an employee from be-

coming a contractor subject to the provisions of section 102, subsection ~~13~~ 13-A.

**Sec. 13. Reports.** The Commissioner of Labor or the commissioner's designee in cooperation with the Executive Director of the Workers' Compensation Board or the executive director's designee shall submit 2 interim reports and one comprehensive final report to the joint standing committee of the Legislature having jurisdiction over labor matters. The first interim report is due February 1, 2013 and must include a review of the implementation of the independent contractor criteria under this Act. This report must include a break down of information by industry and include agency audit finding data for 2011 and 2012; the number of workers misclassified as independent contractors; and, specifically for unemployment insurance, the overreporting and underreporting of wages and unemployment contributions credited or due. The 2nd report is due June 2, 2014 and must include agency audit finding data for 2013, the effects of the criteria on misclassification and an update of the information required in the initial report.

The comprehensive final report must break information down by industry and is due to the joint standing committee of the Legislature having jurisdiction over labor matters by February 1, 2015. This report must include the following:

1. An analysis of the new criteria in comparison with previous criteria for both workers' compensation and unemployment insurance;
2. The identification of any issues with the interpretation or the understanding of the new criteria language by agency staff, businesses and workers;
3. The identification of any issues in the application of the criteria across different industries and occupations;
4. Data, to the extent possible, on the potential effect of identified misclassification on the affected workers with regard to loss of fringe benefits or other workplace benefits; and
5. Data on the effects of the use of the new misclassification penalty.

**Sec. 14. Effective date.** This Act takes effect December 31, 2012.

Effective December 31, 2012.

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## CHAPTER 644

H.P. 1290 - L.D. 1749

### An Act To Amend the Tax Laws

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

**Sec. 1. 29-A MRSA §525, sub-§11**, as amended by PL 2009, c. 598, §6, is further amended to read:

**11. Cooperation.** The State Tax Assessor, the Department of Public Safety and the Secretary of State shall cooperate in the issuance of decals, licenses and permits, the processing of tax returns, enforcement of this section and to ensure that timely information is readily available to all enforcement personnel of the status of those in noncompliance with the fuel use tax laws and motor vehicle registration laws.

Subject to the provisions of Title 36, the State Tax Assessor may by mutual agreement with the Secretary of State delegate to the Secretary of State responsibility for the audit and processing of motor carrier fuel tax returns, motor carrier fuel tax assessment and collection and compliance with the administrative requirements of the International Fuel Tax Agreement.

**Sec. 2. 36 MRSA §187-B, sub-§1, ¶A**, as amended by PL 1999, c. 521, Pt. A, §2, is further amended to read:

A. If the return is filed before or within ~~30~~ 60 days after the taxpayer receives from the assessor a formal demand that the return be filed, or if the return is not filed but the tax due is assessed by the assessor before the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is \$25 or 10% of the tax due, whichever is greater.

**Sec. 3. 36 MRSA §187-B, sub-§1, ¶B**, as amended by PL 2011, c. 380, Pt. K, §1 and affected by §2, is further amended to read:

B. If the return is not filed within ~~30~~ 60 days after the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is \$25 or 25% of the tax due, whichever is greater. The period provided by this paragraph must be extended for up to ~~120~~ 90 days if the taxpayer requests an extension in writing prior to the expiration of the original ~~30-day~~ 60-day period.

**Sec. 4. 36 MRSA §187-B, sub-§1-A**, as amended by PL 2007, c. 437, §3 and affected by §22, is amended to read:

**1-A. Failure to file information return.** ~~Any~~ A partnership or S corporation that fails to make and file an information return required by section 5241 and that has received from the assessor a formal demand that the return be filed is liable for one of the following penalties:

A. If the return is filed within ~~30~~ 60 days after the partnership or S corporation receives from the assessor a formal demand that the return be filed,

the penalty is \$100. The ~~30-day~~ period provided by this paragraph is must be extended for up to ~~120~~ 90 days if the partnership or S corporation requests an extension in writing prior to the expiration of the ~~30-day~~ 60-day period; or

B. Except as provided in paragraph A, if the return is not filed within ~~30~~ 60 days after the partnership or S corporation receives from the assessor a formal demand that the return be filed, the penalty is \$500.

**Sec. 5. 36 MRSA §191, sub-§2, ¶UU**, as reallocated by RR 2011, c. 1, §52, is amended to read:

UU. The production in court on behalf of the assessor or any other party to an action or proceeding under this Title, or the production pursuant to a discovery request under the Maine Rules of Civil Procedure or a request under the freedom of access laws, of any reconsideration decision or other document setting forth or discussing the assessor's practice, interpretation of law or application of the law to particular facts, in redacted format so as not to reveal information from which the taxpayer may be identified. A person requesting the production of any such document shall pay, at the time the request is made, all direct and indirect costs associated with the redacting of information from which the taxpayer or other interested party may be identified, plus an additional fee of \$100 per request; ~~and~~

**Sec. 6. 36 MRSA §191, sub-§2, ¶VV**, as reallocated by RR 2011, c. 1, §53, is amended to read:

VV. The disclosure by the assessor to the taxpayer advocate under section 151-C of information related to a petition for reconsideration filed by a taxpayer pursuant to section 151. The taxpayer advocate is prohibited from disclosing information obtained pursuant to this paragraph other than to the particular taxpayer to whom the information pertains; ~~and~~

**Sec. 7. 36 MRSA §191, sub-§2, ¶WW** is enacted to read:

WW. The disclosure of information to the Department of Inland Fisheries and Wildlife necessary for the administration of the credit for Maine fishery infrastructure investment under section 5216-D.

**Sec. 8. 36 MRSA §1140-B, sub-§2**, as enacted by PL 2007, c. 466, Pt. A, §58, is repealed.

**Sec. 9. 36 MRSA §1752, sub-§1-B**, as amended by PL 2011, c. 296, §1, is further amended to read:

**1-B. Automobile.** "Automobile" means a self-propelled 4-wheel motor vehicle designed primarily to

carry passengers and not designed to run on tracks. "Automobile" includes a pickup truck or van with a ~~registered~~ gross vehicle weight rating of 10,000 pounds or less.

**Sec. 10. 36 MRSA §1754-A**, as amended by PL 2003, c. 390, §9, is further amended to read:

**§1754-A. Registration of owners of space temporarily rented as retail space**

A person who rents or leases space to more than 4 persons at one location for less than a 12-month period for the purpose of making retail sales shall register with the State Tax Assessor. The form for application for registration and the registration certificates must be prescribed and furnished free of charge by the assessor. For each location where more than 4 persons rent or lease space for less than 12 months from the same person, the assessor shall issue a registration certificate, which must be conspicuously displayed at that location. ~~By the 15th of each month following any month in which rental or lease activity has occurred, the person shall provide to the assessor the names, addresses and sales tax registration certificate numbers of those persons who have rented space during the previous month. Information returns must be prescribed and furnished free of charge by the assessor. Returns required under this section must be treated as returns filed under this Title and are subject to section 187-B.~~ A registration certificate issued pursuant to this section is nontransferable and is not a license within the meaning of that term in the Maine Administrative Procedure Act.

A person required to register with the assessor under this section may not rent or lease space to a person for the purpose of making retail sales without verifying that the person is the holder of a valid registration certificate issued by the assessor under section 1754-B. Each person required to register with the assessor under this section shall maintain a list subject to the requirements of section 135, subsection 1 that includes the names, addresses and sales tax registration certificate numbers of those persons who have rented or leased space at that location for the purpose of making retail sales and the dates on which those rentals or leases occurred.

**Sec. 11. 36 MRSA §3202, sub-§2-C**, as enacted by PL 2001, c. 396, §27, is amended to read:

**2-C. IFTA governing documents.** "IFTA governing documents" means the IFTA Articles of Agreement, the IFTA Audit Manual and the IFTA Procedures Manual, as amended as of December 31, 2011.

**Sec. 12. 36 MRSA §3209, sub-§1-B**, as enacted by PL 2001, c. 396, §30, is amended to read:

**1-B. International Fuel Tax Agreement.** The State Tax Assessor shall enforce the IFTA governing

documents and take all steps necessary to maintain the State's membership in the IFTA, in order to:

- A. Facilitate the administration of this chapter;
- B. Promote the fullest and most efficient possible use of the highway system; and
- C. Make uniform the administration, collection and enforcement of special fuel use taxation laws with respect to motor vehicles operated in multiple jurisdictions; by ensuring this State's full participation in the single-base jurisdiction system embodied in the IFTA governing documents; ~~agreed to by other IFTA member jurisdictions and approved by the United States Congress in the Intermodal Surface Transportation Efficiency Act of 1991.~~

If a provision of chapter 7 or this chapter is inconsistent with the IFTA governing documents, the IFTA governing documents prevail for purposes of this chapter except when prohibited by the Constitution of Maine or the United States Constitution. The assessor is authorized to ratify amendments to the IFTA governing documents on behalf of this State, except that the assessor may not ratify any provision that infringes on the substantive taxation authority of the Legislature, including the power to impose taxes, set tax rates and determine exemptions. ~~Subject to the provisions of this Title, the~~ The assessor may by mutual agreement with the Secretary of State delegate to the Secretary of State the assessor's responsibilities under this subsection, as well as the responsibility for the audit, assessment and processing of IFTA special fuel tax returns, IFTA special fuel tax collection, the administrative appeal of IFTA special fuel tax assessments and compliance with IFTA administrative requirements. The assessor shall consult with the Secretary of State and the Commissioner of Public Safety with respect to rules adopted by the Secretary of State pertaining to IFTA. Notwithstanding section 151, if the administrative appeal of IFTA special fuel tax assessments has been delegated to the Secretary of State, such appeals must be taken under Title 29-A, section 111 and the Maine Administrative Procedure Act. For purposes of this Title and Title 29-A, an IFTA special fuel tax assessment is considered final and subject to demand and enforced collection under this Title and Title 29-A if the tax assessed has not been paid by its due date and no further administrative or judicial review is available pursuant to this Title or Title 29-A.

**Sec. 13. 36 MRSA §5122, sub-§1, ¶EE**, as amended by PL 2011, c. 380, Pt. O, §4, is further amended to read:

- EE. The amount claimed as a deduction in determining federal adjusted gross income that is included in the credit for wellness programs under section 5219-FF; ~~and~~

**Sec. 14. 36 MRSA §5122, sub-§1, ¶FF**, as enacted by PL 2011, c. 380, Pt. O, §5, is amended to read:

FF. For taxable years beginning in 2011 and 2012:

(1) An amount equal to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-GG; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-GG; ~~and~~

**Sec. 15. 36 MRSA §5122, sub-§1, ¶GG** is enacted to read:

GG. The amount claimed as a deduction in determining federal adjusted gross income that is used to calculate the credit for Maine fishery infrastructure investment under section 5216-D.

**Sec. 16. 36 MRSA §5122, sub-§2, ¶HH**, as corrected by RR 2011, c. 1, §54, is amended to read:

HH. To the extent included in federal adjusted gross income, annuity payments made to the survivor of a deceased member of the military as the result of service in active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard under a survivor benefit plan or reserve component survivor benefit plan pursuant to 10 United States Code, Chapter 73 reduced by any amount claimed as a modification under paragraph M;

**Sec. 17. 36 MRSA §5122, sub-§2, ¶II**, as corrected by RR 2011, c. 1, §56, is amended to read:

II. For taxable years beginning on or after January 1, 2012, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2011 or 2012 for which an addition was required under subsection 1, paragraph FF, subparagraph (2) for the taxable year beginning in 2011 or 2012.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the

addition modification for such property under subsection 1, paragraph FF, subparagraph (2) related to property placed in service outside the State and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property placed in service outside the State under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph FF, subparagraph (2) for the same property; ~~and~~

**Sec. 18. 36 MRSA §5122, sub-§2, ¶JJ**, as reallocated by RR 2011, c. 1, §55, is amended to read:

JJ. To the extent included in federal adjusted gross income, an amount equal to the distribution from a private venture capital fund of the refundable portion of the credit allowed under section 5216-B-; ~~and~~

**Sec. 19. 36 MRSA §5122, sub-§2, ¶KK** is enacted to read:

KK. To the extent included in federal adjusted gross income, an amount equal to the refundable portion of the income tax credit under the Maine New Markets Capital Investment Program under Title 10, section 1100-Z.

**Sec. 20. 36 MRSA §5200-A, sub-§1, ¶X**, as amended by PL 2011, c. 380, Pt. O, §12, is further amended to read:

X. The amount claimed as a deduction in determining federal taxable income that is included in the credit for wellness programs under section 5219-FF; ~~and~~

**Sec. 21. 36 MRSA §5200-A, sub-§1, ¶Y**, as enacted by PL 2011, c. 380, Pt. O, §13, is amended to read:

Y. For taxable years beginning in 2011 and 2012:

(1) An amount equal to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property placed in service in the State during the taxable year for which a credit is claimed under section 5219-GG; and

(2) An amount equal to the net increase in depreciation attributable to the depreciation deduction claimed by the taxpayer under the Code, Section 168(k) with respect to property for which a credit is not claimed under section 5219-GG-; ~~and~~

**Sec. 22. 36 MRSA §5200-A, sub-§1, ¶Z** is enacted to read:

Z. The amount claimed as a deduction in determining federal taxable income that is used to calculate the credit for Maine fishery infrastructure investment under section 5216-D.

**Sec. 23. 36 MRSA §5200-A, sub-§2, ¶U**, as amended by PL 2011, c. 380, Pt. O, §15 and c. 454, §12, is further amended to read:

U. An amount equal to the gross income from discharge of indebtedness previously deferred under the Code, Section 108(i) and included in federal taxable income. The total subtraction for all years under this paragraph may not exceed the amount of the addition modification under subsection 1, paragraph W for the same indebtedness; ~~and~~

**Sec. 24. 36 MRSA §5200-A, sub-§2, ¶V**, as corrected by RR 2011, c. 1, §57, is amended to read:

V. For taxable years beginning on or after January 1, 2012, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2011 or 2012 for which an addition was required under subsection 1, paragraph Y, subparagraph (2) for the taxable year beginning in 2011 or 2012.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph Y, subparagraph (2) related to property placed in service outside the State and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property placed in service outside the State under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph Y, subparagraph (2) for the same property; ~~and~~

**Sec. 25. 36 MRSA §5200-A, sub-§2, ¶W**, as reallocated by RR 2011, c. 1, §58, is amended to read:

W. To the extent included in federal taxable income, an amount equal to the refundable portion of the credit allowed under section 5216-B and an amount equal to the distribution from a private venture capital fund of the refundable portion of the credit allowed under section 5216-B-; ~~and~~

**Sec. 26. 36 MRSA §5200-A, sub-§2, ¶X** is enacted to read:

X. To the extent included in federal taxable income, an amount equal to the refundable portion of the income tax credit under the Maine New Markets Capital Investment Program under Title 10, section 1100-Z.

**Sec. 27. 36 MRSA §5203-C, sub-§4, ¶A**, as amended by PL 2005, c. 618, §8 and affected by §22, is further amended to read:

A. A minimum tax credit is allowed against the liability arising under this Part for any taxable year other than withholding tax liability. The minimum tax credit equals the excess, if any, of the adjusted alternative minimum tax, reduced by the credit for tax paid to other jurisdictions determined under subsection 3 ~~and the seed capital investment tax credit provided by section 5216-B, the Pine Tree Development Zone tax credit provided by section 5219-W, the credit for rehabilitation of historic properties after 2007 provided by section 5219-BB and the income tax credit under the Maine New Markets Capital Investment Program under Title 10, section 1100-Z~~ that was imposed for all prior taxable years beginning after 2003 over the amount allowable as a credit under this subsection for ~~such those~~ prior taxable years, plus unused minimum tax credits from years beginning after 1990.

**Sec. 28. 36 MRSA §5216-D, sub-§6**, as enacted by PL 2011, c. 380, Pt. HHHH, §3, is repealed.

**Sec. 29. 36 MRSA §5219-H, sub-§1**, as amended by PL 2011, c. 240, §36, is further amended to read:

**1. Meaning of tax.** Whenever a credit provision in this chapter, other than ~~section 5216-B, section 5219-W, section 5219-BB and the income tax credit under the Maine New Markets Capital Investment Program under Title 10, section 1100-Z,~~ allows for a credit "against the tax otherwise due under this Part," "against the tax imposed by this Part" or similar language, "tax" means all taxes imposed under this Part, except the minimum tax imposed by section 5203-C and the taxes imposed by chapter 827.

**Sec. 30. PL 2009, c. 356, Pt. A, §5** is repealed.

**Sec. 31. P&SL 2009, c. 12, §1** is amended to read:

**Sec. 1. Electronic filing requirements.** With regard to electronic filing requirements established by the Department of Administrative and Financial Services, Bureau of Revenue Services that begin on April 1, 2009, the bureau shall continue the practice of leniency in granting waivers of the electronic filing requirement for any taxpayer who has difficulty in meeting the requirements of electronic filing and shall provide clear explanation to taxpayers by the most expeditious method of the availability of waivers. ~~The bureau shall report by January 15th annually to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the status of electronic filing requirements and the number of waivers requested and granted. The bu~~

~~reau's reporting requirement under this section ends January 15, 2015.~~

**Sec. 32. Application.** Those sections of this Act that amend the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraph HH, Title 36, section 5203-C, subsection 4, paragraph A and Title 36, section 5219-H, subsection 1 and that enact Title 36, section 5122, subsection 2, paragraph KK and Title 36, section 5200-A, subsection 2, paragraph X apply to tax years beginning on or after January 1, 2012.

**Sec. 33. Retroactivity.** Those sections of this Act that amend the Maine Revised Statutes, Title 36, section 187-B, subsections 1 and 1-A apply retroactively to July 1, 2011. That section of this Act that amends Title 36, section 1752, subsection 1-B applies retroactively to September 28, 2011. That section of this Act that amends Private and Special Law 2009, chapter 12, section 1 applies retroactively to April 21, 2009. Those sections of this Act that enact Title 36, section 5122, subsection 1, paragraph GG and Title 36, section 5200-A, subsection 1, paragraph Z and repeal Title 36, section 5216-D, subsection 6 apply retroactively to June 20, 2011.

**Sec. 34. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Revenue Services - Bureau of 0002**

Initiative: Removes Highway Fund allocation from Maine Revenue Services for the transfer of 4 Senior Revenue Agent positions and related All Other from Maine Revenue Services to the Department of Secretary of State, Administration - Motor Vehicles.

HIGHWAY FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(4.000)
Personal Services	\$0	(\$302,202)
All Other	\$0	(\$64,748)

HIGHWAY FUND TOTAL \$0 (\$366,950)

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
HIGHWAY FUND	\$0	(\$366,950)
DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$366,950)

**SECRETARY OF STATE, DEPARTMENT OF  
Administration - Motor Vehicles 0077**

Initiative: Provides Highway Fund allocation for the transfer of 4 Senior Revenue Agent positions and related All Other from Maine Revenue Services to the Department of Secretary of State, Administration - Motor Vehicles.

<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	4.000
Personal Services	\$0	\$302,202
All Other	\$0	\$64,748
	<hr/>	<hr/>
HIGHWAY FUND TOTAL	\$0	\$366,950

<b>SECRETARY OF STATE, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
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<b>HIGHWAY FUND</b>	<b>\$0</b>	<b>\$366,950</b>
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<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$366,950</b>
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<b>SECTION TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
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<b>HIGHWAY FUND</b>	<b>\$0</b>	<b>\$0</b>
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<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>
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**Sec. 35. Effective date.** That section of this Act that amends the Maine Revised Statutes, Title 36, section 1754-A takes effect August 1, 2012.

See title page for effective date, unless otherwise indicated.

**CHAPTER 645  
S.P. 589 - L.D. 1725**

**An Act To Strengthen the  
Unemployment Insurance  
Laws and Reduce  
Unemployment Fraud**

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

**Sec. 1. 26 MRSA §1051, sub-§1,** as amended by PL 1983, c. 118, is further amended to read:

**1. False statement or representation.** A person is guilty of unemployment fraud if ~~he~~ that person makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact:

- A. To obtain or increase any benefit or other payment under this chapter or under an employment security law of any other state or of the Federal Government;
- B. To prevent or reduce the payment of unemployment benefits to any individual;
- C. To avoid becoming or remaining an employer under this chapter; or
- D. To avoid or reduce any contribution or other payment required from an employing unit under this chapter.

Each false statement or representation or failure to disclose a material fact ~~shall constitute~~ constitutes a separate offense. Unemployment fraud is ~~a Class D crime~~ theft by deception under Title 17-A, section 354.

**Sec. 2. 26 MRSA §1192, sub-§2,** as repealed and replaced by PL 1975, c. 25, is amended to read:

**2. Has registered for work.** ~~He~~ The individual has registered for work at, and ~~thereafter~~ continued to report at, an employment office in accordance with ~~such regulations as rules~~ the commission may prescribe ~~adopts,~~ adopts, except that the commission may, by ~~regulation~~ rule, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which ~~the commission~~ the commission finds that compliance with ~~such~~ the requirements would be oppressive, or would be inconsistent with the purposes of this chapter. ~~No such regulation shall~~ A rule under this subsection may not conflict with section 1191, subsection 1.

The individual must actively seek work each week in which a claim for benefits is filed unless the individual is participating in approved training under subsection 6 or work search has been waived in accordance with rules adopted by the commission and provide evidence of work search efforts in a manner and form as prescribed by the commission. Failure to provide required work search documentation results in a denial of benefits in accordance with section 1194, subsection 2 for the week or weeks for which no documentation was provided unless the commission determines there is good cause for the individual's failure to comply with this requirement.

**Sec. 3. 26 MRSA §1192, sub-§12,** as corrected by RR 1995, c. 1, §23, is amended to read:

**12. Participation in reemployment services.** The individual who has been referred to reemployment services, pursuant to a profiling system established by the commissioner, participates in those services or

similar services unless it is determined that the individual has completed those services or there is good cause for the individual's failure to participate; ~~and~~

~~For purposes of this subsection, "good cause" means all circumstances described in the definition of good cause in Chapter 1 of the rules governing the administration of the Employment Security Law, including child care emergencies and transportation emergencies.~~

**Sec. 4. 26 MRSA §1192, sub-§13** is enacted to read:

**13. Reemployment eligibility assessment services; participation.** In the case that the individual has been referred to reemployment eligibility assessment services by the Department of Labor, the individual participates in those services, unless the department determines there is good cause for the individual's failure to participate. Failure to participate in reemployment eligibility assessment services without good cause results in a denial of benefits until the individual participates.

**Sec. 5. 26 MRSA §1192**, as amended by PL 2009, c. 271, §3 and c. 466, §2, is further amended by adding at the end a new paragraph to read:

For purposes of subsections 2, 3, 12 and 13, "good cause" means the unemployed individual is ill; the presence of the unemployed individual is required due to an illness of the unemployed individual's spouse, children, parents, stepparents, brothers or sisters, or relatives who have been acting in the capacity of a parent of either the unemployed individual or the unemployed individual's spouse; the unemployed individual is in attendance at the funeral of such a relative; the unemployed individual is observing a religious holiday as required by religious conviction; the unemployed individual is performing either a military or civil duty as required by law; or other cause of a necessitous and compelling nature, including child care emergencies and transportation emergencies. "Good cause" does not include incarceration as a result of a conviction for a felony or misdemeanor.

**Sec. 6. 26 MRSA §1193, sub-§2**, as amended by PL 1979, c. 651, §46 and 47, is further amended to read:

**2. Discharge for misconduct.** For the week in which ~~he~~ the individual has been discharged for misconduct connected with ~~his~~ the individual's work, if so found by the deputy, and disqualification ~~shall continue~~ continues until claimant has earned ~~4~~ 8 times ~~his~~ the claimant's weekly benefit amount in employment by an employer.

A. For the duration of any period for which ~~he~~ the individual has been suspended from ~~his~~ the individual's work by ~~his~~ the individual's employer as discipline for misconduct, if so found by the

deputy, or until the claimant has earned ~~4~~ 8 times ~~his~~ the claimant's weekly benefit amount in employment by an employer;

**Sec. 7. 26 MRSA §1193, sub-§3**, as amended by PL 1983, c. 650, §1, is further amended to read:

**3. Refused to accept work.** For the duration of ~~his~~ the individual's unemployment subsequent to ~~his~~ the individual's having refused to accept an offer of suitable work for which ~~he~~ the individual is reasonably fitted, or having refused to accept a referral to a suitable job opportunity when directed to do so by a local employment office of this State or another state or if an employer is unable to contact a former employee at last known or given address, for the purpose of recall to suitable employment; or the individual fails to respond to a request to report to the local office for the purpose of a referral to a suitable job, and the disqualification ~~shall continue~~ continues until claimant has earned 8 ~~10~~ times ~~his~~ the claimant's weekly benefit amount in employment by an employer. If the deputy determines that refusal has occurred for cause of necessitous and compelling nature, the individual ~~shall be~~ is ineligible while such inability or unavailability continues, but ~~shall be~~ is eligible to receive prorated benefits for that portion of the week during which ~~he~~ the individual was able and available.

A. In determining whether or not any work is suitable for an individual during the first ~~12~~ 10 consecutive weeks of unemployment, the deputy shall consider the degree of risk involved to ~~his~~ the individual's health, safety and morals, ~~his~~ the individual's physical fitness and prior training, ~~his~~ the individual's experience and prior earnings, ~~his~~ the individual's length of unemployment and prospects for securing local work in ~~his~~ the individual's customary occupation; and the distance of the available work from ~~his~~ the individual's residence.

In determining whether or not work is suitable for an individual after the first ~~12~~ 10 consecutive weeks of unemployment, the deputy shall consider the degree of risk involved to ~~his~~ the individual's health, safety and morals, ~~his~~ the individual's physical fitness, ~~his~~ the individual's prior earnings, ~~his~~ the individual's length of unemployment and prospects for securing local work in ~~his~~ the individual's customary occupation and the distance of the available work from ~~his~~ the individual's residence. The individual's prior earnings ~~shall~~ may not be considered with respect to an offer of or referral to an otherwise suitable job ~~which that~~ which pays wages equal to or exceeding the average weekly wage in the State of ~~Maine~~.

B. Notwithstanding any other provisions of this chapter, work ~~shall~~ may not be ~~deemed~~ considered suitable and benefits ~~shall~~ may not be denied under this chapter to any otherwise eligible indi-

vidual for refusing to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout or other labor dispute;
- (2) If the wages, hours or other conditions of work are substantially less favorable to the individual than those prevailing for similar work in the locality;
- (3) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;
- (4) If the position offered is the same one previously vacated by the claimant for good cause attributable to that employment or is the position ~~which~~ that the employee left for reasons attributable to that employment, but which were found insufficient to relieve disqualification for benefits under subsection 1, paragraph A, ~~provided that as long as~~, in either instance, the specific good cause or specific reasons for leaving have not been removed or otherwise changed; and
- (5) If the position offered is on a shift, the greater part of which falls between the hours of midnight ~~to~~ and 5 a.m., and is refused because of parental obligation, the need to care for an immediate family member, or the unavailability of a personal care attendant required to assist the unemployed individual who is a handicapped person;

**Sec. 8. 26 MRSA §1193, sub-§5**, as amended by PL 2009, c. 638, §1, is further amended to read:

**5. Receiving remuneration.** For any week with respect to which ~~he~~ the individual is receiving, ~~is entitled~~ has been scheduled to receive or has received remuneration in the form of:

A. Dismissal wages, wages in lieu of notice, terminal pay or holiday pay; ~~or~~

A-1. Any vacation pay in an amount exceeding the equivalent of 4 weeks' wages for that individual; or

B. Benefits under the unemployment compensation or employment security law of any state or similar law of the United States.

If the remuneration under paragraph A is less than the benefits ~~which that~~ which that would otherwise be due under this chapter, ~~he shall be~~ the individual is entitled to receive for that week, if otherwise eligible, benefits reduced by the amount of the remuneration, rounded to the nearest lower full dollar amount. Earned vacation pay that is paid to the individual prior to the individual's being notified orally or in writing by the employer of

the employer's intent to sever the employment relationship is not considered remuneration for purposes of this subsection;

**Sec. 9. 26 MRSA §1193, sub-§6**, as amended by PL 1999, c. 464, §7, is further amended to read:

**6. Has falsified.** For any week for which the deputy finds that the claimant made a false statement or representation knowing it to be false or knowingly failed to disclose a material fact in the claimant's application to obtain benefits. In addition, for a first or 2nd occurrence, the claimant is ineligible to receive any benefits for a period of not less than 6 months nor more than one year from the mailing date of the determination, and the commissioner shall assess a penalty of 50% of the benefits falsely obtained for the first occurrence; ~~and 75% for the 2nd occurrence and 100% for the 3rd and any subsequent occurrences.~~ If an individual is disqualified for a 3rd occurrence of statement falsification or misrepresentation in an effort to obtain benefits, the commissioner shall assess a penalty of 100% of the benefits falsely obtained and the claimant is disqualified from receiving benefits for a period of time to be determined by the commissioner; ~~or~~

**Sec. 10. Interdepartmental cooperation.** The Department of Labor shall work with the United States Department of Labor to explore allowing alternatives for individuals for whom in-person participation in the first reemployment eligibility assessment session is unduly burdensome based on travel distance and shall adopt standards to implement any allowable and feasible alternatives. If permitted by the Federal Government, the department shall develop standards and procedures to provide alternatives to in-person participation for all subsequent reemployment eligibility assessment sessions for individuals for whom travel to such sessions would be unduly burdensome. Waiver of in-person participation in services must be made on a case-by-case basis in accordance with standards adopted by the department. If alternatives to in-person participation are allowed and are available, the department shall notify all individuals affected by this section of any standards or procedures providing an alternative to in-person participation in reemployment eligibility assessment services.

See title page for effective date.

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## CHAPTER 646

### H.P. 1251 - L.D. 1699

#### An Act To Create Excise Tax Equity and Consistency for Buses

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

**Sec. 1. 29-A MRSA §533-A, sub-§3, ¶A**, as amended by PL 2001, c. 361, §15, is further amended to read:

A. Between July 1st and October 31st, the Secretary of State shall disburse to a participating municipality a sum equal to the difference in the amount of excise tax that would have been collected by that municipality in the prior fiscal year on each commercial motor vehicle or bus under Title 36, section 1482, subsection 1, paragraph C, subparagraph (3) or (4) using the manufacturer's suggested retail price from the amount of that excise tax actually collected by that municipality in the prior fiscal year based on the actual purchase price. The Secretary of State shall provide supporting documentation to a municipality regarding the disbursement that municipality receives under this section.

**Sec. 2. 36 MRSA §1481, sub-§8** is enacted to read:

**8. Bus.** "Bus" has the same meaning as in Title 29-A, section 101, subsection 11.

**Sec. 3. 36 MRSA §1482, sub-§1, ¶C**, as amended by PL 2001, c. 671, §32, is further amended to read:

C. For the privilege of operating a motor vehicle or camper trailer on the public ways, each motor vehicle, other than a stock race car, or each camper trailer to be so operated is subject to excise tax as follows, except as specified in subparagraph (3) or (4): a sum equal to 24 mills on each dollar of the maker's list price for the first or current year of model, 17 1/2 mills for the 2nd year, 13 1/2 mills for the 3rd year, 10 mills for the 4th year, 6 1/2 mills for the 5th year and 4 mills for the 6th and succeeding years. The minimum tax is \$5 for a motor vehicle other than a bicycle with motor attached, \$2.50 for a bicycle with motor attached, \$15 for a camper trailer other than a tent trailer and \$5 for a tent trailer. The excise tax on a stock race car is \$5.

- (1) On new registrations of automobiles, trucks and truck tractors, the excise tax payment must be made prior to registration and is for a one-year period from the date of registration.
- (2) Vehicles registered under the International Registration Plan are subject to an excise tax determined on a monthly proration basis if their registration period is less than 12 months.
- (3) For commercial vehicles manufactured in model year 1996 and after, the amount of excise tax due for trucks or truck tractors registered for more than 26,000 pounds and for

Class A special mobile equipment, as defined in Title 29-A, section 101, subsection 70, is based on the purchase price in the original year of title rather than on the list price. Verification of purchase price for the application of excise tax is determined by the initial bill of sale or the state sales tax document provided at point of purchase. The initial bill of sale is that issued by the dealer to the initial purchaser of a new vehicle.

(4) For buses manufactured in model year 2006 and after, the amount of excise tax due is based on the purchase price in the original year of title rather than on the list price. Verification of purchase price for the application of excise tax is determined by the initial bill of sale or the state sales tax document provided at point of purchase. The initial bill of sale is that issued by the dealer to the initial purchaser of a new vehicle.

For motor vehicles being registered pursuant to Title 29-A, section 405, subsection 1, paragraph C, the excise tax must be prorated for the number of months in the registration.

**Sec. 4. Appropriations and allocations.** The following appropriations and allocations are made.

**SECRETARY OF STATE, DEPARTMENT OF  
Municipal Excise Tax Reimbursement Fund 0871**

Initiative: Allocates funds as a result of adding buses manufactured in model year 2006 and after to the list of items municipalities can be reimbursed for through the Municipal Excise Tax Reimbursement Fund.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$30,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$30,000

See title page for effective date.

**CHAPTER 647**

**H.P. 1417 - L.D. 1913**

**An Act To Review and Restructure the Workers' Compensation System**

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

**Sec. 1. 39-A MRSA §153, sub-§10** is enacted to read:

**10. Annual report to Legislature.** The board shall collect and analyze data from Maine cases on permanent impairment ratings and costs to employers associated with the compensation for partial incapacity pursuant to section 213. The board shall provide annually by January 31st a report to the joint standing committee of the Legislature having jurisdiction over labor matters regarding the data collected.

**Sec. 2. 39-A MRSA §205, sub-§9, ¶B,** as amended by PL 2009, c. 280, §1 and affected by §2, is further amended to read:

B. In all circumstances other than the return to work or increase in pay of the employee under paragraph A, if the employer, insurer or group self-insurer determines that the employee is not eligible for compensation under this Act, the employer, insurer or group self-insurer may discontinue or reduce benefits only in accordance with this paragraph.

(1) If no order or award of compensation or compensation scheme has been entered, the employer, insurer or group self-insurer may discontinue or reduce benefits by sending a certificate by certified mail to the employee and to the board, together with any information on which the employer, insurer or group self-insurer relied to support the discontinuance or reduction. The employer may discontinue or reduce benefits no earlier than 21 days from the date the certificate was mailed to the employee, except that benefits paid pursuant to section 212, subsection 1 or section 213, subsection 1 may be discontinued or reduced based on the amount of actual documented earnings paid to the employee during the 21-day period if the employer files with the board the documentation or evidence that substantiates the earnings and the employer only reduces or discontinues benefits for any week for which it possesses evidence of such earning. The certificate must advise the employee of the date when the employee's benefits will be discontinued or reduced, as well as other information as prescribed by the board, including the employee's appeal rights.

(2) If an order or award of compensation or compensation scheme has been entered, the employer, insurer or group self-insurer shall petition the board for an order to reduce or discontinue benefits and may not reduce or discontinue benefits until the matter has been finally resolved through the dispute resolution procedures of this Act, any appeal proceedings have been completed and an order of reduction or discontinuance has been entered

by the board by a decree issued by a hearing officer. The employer, insurer or group self-insurer may reduce or discontinue benefits pursuant to such a decree pending a motion for findings of fact and conclusions of law or pending an appeal from that decree. Upon the filing of a petition, the employer may discontinue or reduce the weekly benefits being paid pursuant to section 212, subsection 1 or section 213, subsection 1 based on the amount of actual documented earnings paid to the employee after filing the petition. The employer shall file with the board the documentation or evidence that substantiates the earnings and the employer may discontinue or reduce weekly benefits only for weeks for which the employer possesses evidence of such earnings.

**Sec. 3. 39-A MRSA §211,** as amended by PL 1995, c. 560, Pt. G, §22, is further amended to read:

**§211. Maximum benefit levels**

Effective January 1, 1993, the maximum weekly benefit payable under section 212, 213 or 215 is \$441 or 90% of state average weekly wage, whichever is higher. Beginning on July 1, 1994, the maximum benefit level is the higher of \$441 or 90% of the state average weekly wage as adjusted annually utilizing the state average weekly wage as determined by the Department of Labor, whichever is higher. If the injured employee's date of injury is on or after January 1, 2013, the maximum benefit level is \$441 or 100% of the state average weekly wage as adjusted annually utilizing the state average weekly wage as determined by the Department of Labor, whichever is higher.

**Sec. 4. 39-A MRSA §212, sub-§1,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**1. Total incapacity; date of injury prior to January 1, 2013.** ~~While~~ If the injured employee's date of injury is prior to January 1, 2013, while the incapacity for work resulting from the injury is total, the employer shall pay the injured employee a weekly compensation equal to 80% of the employee's after-tax average weekly wage, but not more than the maximum benefit under section 211. Compensation must be paid for the duration of the incapacity.

Any employee who is able to perform full-time remunerative work in the ordinary competitive labor market in the State, regardless of the availability of such work in and around that employee's community, is not eligible for compensation under this section, but may be eligible for compensation under section 213.

**Sec. 5. 39-A MRSA §212, sub-§1-A** is enacted to read:

**1-A. Total incapacity; date of injury on or after January 1, 2013.** If the injured employee's date of injury is on or after January 1, 2013, while the incapacity for work resulting from the injury is total, the employer shall pay the injured employee a weekly compensation equal to 2/3 of the employee's gross average weekly wages, earnings or salary, but not more than the maximum benefit under section 211. Compensation must be paid for the duration of the incapacity.

Any employee who is able to perform full-time remunerative work in the ordinary competitive labor market in the State, regardless of the availability of such work in and around that employee's community, is not eligible for compensation under this section, but may be eligible for compensation under section 213.

**Sec. 6. 39-A MRSA §212, sub-§3,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**3. Specific loss benefits.** In cases included in the following schedule, the incapacity is considered to continue for the period specified, and the compensation due is ~~80% of the after-tax average weekly wage calculated based on the date of injury~~ subject to the maximum benefit set in section 211. Compensation under this subsection is available only for the actual loss of the following:

- A. Thumb, 65 weeks;
- B. First finger, 38 weeks;
- C. Second finger, 33 weeks;
- D. Third finger, 22 weeks;
- E. Fourth finger, 16 weeks;
- F. The loss of the first phalange of the thumb, or of any finger, is considered to be equal to the loss of 1/2 of that thumb or finger, and compensation is 1/2 of the amounts specified in paragraphs A to E. The loss of more than one phalange is considered as the loss of the entire finger or thumb. The amount received for more than one finger may not exceed the amount provided in this schedule for the loss of a hand;
- G. Great toe, 33 weeks;
- H. A toe other than the great toe, 11 weeks. The loss of the first phalange of any toe is considered to be equal to the loss of 1/2 of that toe, and compensation is 1/2 of the amounts specified in paragraphs F and G. The loss of more than one phalange is considered the loss of the entire toe;
- I. Hand, 215 weeks. An amputation between the elbow and wrist that is 6 or more inches below the elbow is considered a hand;

J. Arm, 269 weeks. An amputation above the point specified in paragraph I is considered an arm;

K. Foot, 162 weeks. An amputation between the knee and the foot 7 or more inches below the tibial table, or plateau, is considered a foot;

L. Leg, 215 weeks. An amputation above the point specified in paragraph K is considered a leg; and

M. Eye, 162 weeks. Eighty percent loss of vision of one eye constitutes the total loss of that eye.

**Sec. 7. 39-A MRSA §213, sub-§1,** as amended by PL 2003, c. 52, §1, is repealed and the following enacted in its place:

**1. Benefit and duration.** While the incapacity for work is partial, the employer shall pay the injured employee a weekly compensation as follows.

A. If the injured employee's date of injury is prior to January 1, 2013, the weekly compensation is equal to 80% of the difference between the injured employee's after-tax average weekly wage before the personal injury and the after-tax average weekly wage that the injured employee is able to earn after the injury, but not more than the maximum benefit under section 211. Compensation must be paid for the duration of the disability if the employee's permanent impairment, determined according to subsection 1-A and the impairment guidelines adopted by the board pursuant to section 153, subsection 8, resulting from the personal injury is in excess of 15% to the body. In all other cases an employee is not eligible to receive compensation under this paragraph after the employee has received a total of 260 weeks of compensation under section 212, subsection 1, this paragraph or both. The board may in the exercise of its discretion extend the duration of benefit entitlement beyond 260 weeks in cases involving extreme financial hardship due to inability to return to gainful employment. This authority may be delegated by the board, on a case-by-case basis, to a hearing officer or a panel of 3 hearing officers. Decisions made under this paragraph must be made expeditiously. A decision under this paragraph made by a hearing officer or a panel of 3 hearing officers may not be appealed to the board under section 320, but may be appealed pursuant to section 322.

B. If the injured employee's date of injury is on or after January 1, 2013, the weekly compensation is equal to 2/3 of the difference, due to the injury, between the employee's average gross weekly wages, earnings or salary before the injury and the average gross weekly wages, earnings or salary that the employee is able to earn after the injury, but not more than the maximum benefit under section 211. An employee is not eligible to re-

ceive compensation under this paragraph after the employee has received a total of 520 weeks of compensation under section 212, subsection 1-A, this paragraph or both. The board may in the exercise of its discretion extend the duration of benefit entitlement beyond 520 weeks in cases involving extreme financial hardship due to inability to return to gainful employment. This authority may be delegated by the board, on a case-by-case basis, to a hearing officer or a panel of 3 hearing officers. The board, hearing officer or panel shall make a decision under this paragraph expeditiously. A decision under this paragraph made by a hearing officer or a panel of 3 hearing officers may not be appealed to the board under section 320, but may be appealed pursuant to section 321-A.

Orders extending benefits beyond 520 weeks are not subject to review more often than every 2 years from the date of the board order or request allowing an extension.

**Sec. 8. 39-A MRSA §213, sub-§1-B** is enacted to read:

**1-B. Long-term partial incapacity; date of injury on or after January 1, 2013.** After the exhaustion of benefits under subsection 1, paragraph B if the whole person permanent impairment resulting from the injury is in excess of 18% and if the employee is working and the employee's earnings, as measured by average weekly earnings over the most recent 26-week period documented by payroll records or tax returns, is 65% or less of the preinjury average weekly wage, the employer shall pay weekly compensation equal to 2/3 of the difference between the employee's average weekly wage at the time of the injury and the employee's postinjury wage, but not more than the maximum benefit under section 211. In order for the employee to qualify for benefits under this subsection, the employee's actual earnings must be commensurate with the employee's earning capacity, which includes consideration of the employee's physical and psychological work capacity as determined by an independent examiner under section 312. In addition, in order for the employee to qualify for benefits under this subsection, the employee must have earnings from employment for a period of not less than 12 months within a 24-month period prior to the expiration of the 520-week durational limit under subsection 1, paragraph B. Compensation under this subsection must be paid at a fixed rate.

While the employee is claiming or receiving extended partial incapacity benefits under this subsection, the employee shall complete and provide quarterly employment status reports and provide copies of current tax returns as early as practicable after the return is filed.

The employee's entitlement to extended partial incapacity benefits under this subsection is determined based upon the facts that exist at the time of expiration of 520 weeks of benefits under subsection 1, paragraph B. If the employee is not entitled to extended partial incapacity benefits upon the expiration of 520 weeks of benefits under subsection 1, paragraph B, the employee's entitlement to partial incapacity benefits expires. If the employee is entitled to extended partial incapacity benefits under this subsection, once the employee's earnings, as measured by average weekly earnings over the most recent 26-week period, are equal to or greater than the preinjury average weekly wage, the employee's entitlement to extended partial incapacity benefits under this subsection terminates permanently.

**Sec. 9. 39-A MRSA §213, sub-§3-A** is enacted to read:

**3-A. Dates of injury on or after January 1, 2006 and before January 1, 2013.** If the injured employee's date of injury is on or after January 1, 2006 and before January 1, 2013, the permanent impairment threshold is adjusted to a whole person impairment in excess of 12%.

**Sec. 10. 39-A MRSA §214, sub-§1, ¶B,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

B. If an injured employee's date of injury is prior to January 1, 2013 and the employee is employed at any job and the average weekly wage of the employee is less than that which the employee received before the date of injury, the employee is entitled to receive weekly benefits under this Act equal to 80% of the difference between the injured employee's after-tax weekly wage before the date of injury and the after-tax weekly wage that the injured employee is able to earn after the date of injury, but not more than the maximum weekly rate of compensation, as determined under section 211.

**Sec. 11. 39-A MRSA §214, sub-§1, ¶B-1** is enacted to read:

B-1. If an injured employee's date of injury is on or after January 1, 2013 and the employee is employed at any job and the average weekly wage of the employee is less than that which the employee received before the date of injury, the employee is entitled to receive weekly benefits under this Act equal to 2/3 of the difference, due to the injury, between the employee's average gross weekly wages, earnings or salary before the injury and the average gross weekly wages, earnings or salary that the employee is able to earn after the injury, but not more than the maximum weekly rate of compensation, as determined under section 211.

**Sec. 12. 39-A MRSA §215, sub-§1**, as amended by PL 2007, c. 361, §1 and affected by §2, is further amended to read:

**1. Death of employee; date of injury prior to January 1, 2013.** If an injured employee's date of injury is prior to January 1, 2013 and if death results from the injury of ~~an~~ the employee, the employer shall pay or cause to be paid to the dependents of the employee who were wholly dependent upon the employee's earnings for support at the time of the injury, a weekly payment equal to 80% of the employee's after-tax average weekly wage, but not more than the maximum benefit under section 211, for a period of 500 weeks from the date of death. If the employee leaves dependents only partially dependent upon the employee's earnings for support at the time of injury, the employer shall pay weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent, as 80% of the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of injury. If, at the expiration of the 500-week period, any wholly or partially dependent person is less than 18 years of age, the employer shall continue to pay or cause to be paid the weekly compensation until that person reaches the age of 18.

If a dependent spouse dies or becomes a dependent of another person, the payments must cease upon the payment to the spouse of the balance of the compensation to which the spouse would otherwise have been entitled but in no event to exceed the sum of \$500.00. The remaining weeks of compensation, if any, are payable to those persons either wholly or partially dependent upon the employee for support at the employee's death. When, at the expiration of the 500-week period, any wholly or partially dependent person is less than 18 years of age, the employer shall continue to pay or cause to be paid the weekly compensation, until that person reaches the age of 18. The payment of compensation to any dependent child after the expiration of the 500-week period ceases when the child reaches the age of 18 years, if at the age of 18 years the child is neither physically nor mentally incapacitated from earning, or when the child reaches the age of 16 years and thereafter is self-supporting for 6 months. If the child ceases to be self-supporting thereafter, the dependency must be reinstated. As long as any of the 500 weeks of compensation remain, that compensation is payable to the person either wholly or partially dependent upon the deceased employee for support at the time of the employee's death, with the exception of a dependent spouse who becomes a dependent of another. If a wholly dependent or partially dependent child who reaches 18 years of age is either physically or mentally incapacitated so as to be unable to earn a living as determined by the board, the payments must continue until such time as the child either

dies or is no longer physically or mentally incapacitated from earning.

**Sec. 13. 39-A MRSA §215, sub-§1-A** is enacted to read:

**1-A. Death of employee; date of injury on or after January 1, 2013.** If an injured employee's date of injury is on or after January 1, 2013 and if death results from the injury of the employee, the employer shall pay or cause to be paid to the dependents of the employee who were wholly dependent upon the employee's earnings for support at the time of the injury a weekly payment equal to 2/3 of the employee's gross average weekly wages, earnings or salary, but not more than the maximum benefit under section 211, for a period of 500 weeks from the date of death. If the employee leaves dependents only partially dependent upon the employee's earnings for support at the time of injury, the employer shall pay weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent, as 2/3 of the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of injury. If, at the expiration of the 500-week period, any wholly or partially dependent person is less than 18 years of age, the employer shall continue to pay or cause to be paid the weekly compensation until that person reaches the age of 18.

If a dependent spouse dies or becomes a dependent of another person, the payments must cease upon the payment to the spouse of the balance of the compensation to which the spouse would otherwise have been entitled but in no event to exceed the sum of \$500.00. The remaining weeks of compensation, if any, are payable to those persons either wholly or partially dependent upon the employee for support at the employee's death. When, at the expiration of the 500-week period, any wholly or partially dependent person is less than 18 years of age, the employer shall continue to pay or cause to be paid the weekly compensation, until that person reaches the age of 18. The payment of compensation to any dependent child after the expiration of the 500-week period ceases when the child reaches the age of 18 years, if at the age of 18 years the child is neither physically nor mentally incapacitated from earning, or when the child reaches the age of 16 years and thereafter is self-supporting for 6 months. If the child ceases to be self-supporting thereafter, the dependency must be reinstated. As long as any of the 500 weeks of compensation remain, that compensation is payable to the person either wholly or partially dependent upon the deceased employee for support at the time of the employee's death, with the exception of a dependent spouse who becomes a dependent of another. If a wholly dependent or partially dependent child who reaches 18 years of age is either physically or mentally incapacitated so as to be unable to earn a living as determined by the board, the payments must continue until such time as the child either

dies or is no longer physically or mentally incapacitated from earning.

**Sec. 14. 39-A MRSA §217, sub-§8** is enacted to read:

**8. Presumption.** If an employee is participating in a rehabilitation plan ordered pursuant to subsection 2, there is a presumption that work is unavailable to the employee for as long as the employee continues to participate in employment rehabilitation.

**Sec. 15. 39-A MRSA §221, sub-§2, ¶A,** as enacted by PL 2009, c. 521, §1 and affected by §2, is repealed and the following enacted in its place:

**A. "After-tax amount" means:**

(1) For benefits paid on claims for which the date of injury is prior to January 1, 2013, the gross amount of any benefit under subsection 3, paragraph A, subparagraph (2), (3), (4) or (5) reduced by the prorated weekly amount that would have been paid, if any, under the Federal Insurance Contributions Act, 26 United States Code, Sections 3101 to 3126, state income tax and federal income tax, calculated on an annual basis using as the number of exemptions the disabled employee's dependents plus the employee, and without excess itemized deductions. In determining the after-tax amount the tables provided for in section 102, subsection 1 must be used. The gross amount of any benefit under subsection 3, paragraph A, subparagraph (2), (3), (4) or (5) is presumed to be the same as the average weekly wage for purposes of the table. The applicable 80% of after-tax amount as provided in the table, multiplied by 1.25, is conclusive for determining the after-tax amount of benefits under subsection 3, paragraph A, subparagraph (2), (3), (4) or (5); and

(2) For benefits paid on claims for which the date of injury is on or after January 1, 2013, the net weekly amount of any old-age insurance benefit or benefit under an employee benefit plan, reduced by the prorated weekly amount that would have been paid, if any, under the Federal Insurance Contributions Act, 26 United States Code, Sections 3101 to 3126, federal income and state income taxes, calculated on an annual basis. The after-tax amount of any benefit subject to income taxes must be determined by using the maximum number of dependents' allowances to which the employee is entitled and the standard deduction or zero bracket amount applicable to the employee's filing status.

**Sec. 16. 39-A MRSA §301, first ¶,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**Proceedings** For claims for which the date of injury is prior to January 1, 2013, proceedings for compensation under this Act, except as provided, may not be maintained unless a notice of the injury is given within 90 days after the date of injury. For claims for which the date of injury is on or after January 1, 2013, proceedings for compensation under this Act, except as provided, may not be maintained unless a notice of the injury is given within 30 days after the date of injury. The notice must include the time, place, cause and nature of the injury, together with the name and address of the injured employee. The notice must be given by the injured employee or by a person in the employee's behalf, or, in the event of the employee's death, by the employee's legal representatives, or by a dependent or by a person in behalf of either.

**Sec. 17. 39-A MRSA §302,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**§302. Sufficiency of notice; knowledge of employer; extension of time for notice**

A notice given under section 301 may not be held invalid or insufficient by reason of any inaccuracy in stating any of the facts required for proper notice, unless it is shown that it was the intention to mislead and that the employer was in fact misled by the notice. Want of notice is not a bar to proceedings under this Act if it is shown that the employer or the employer's agent had knowledge of the injury. Any time during which the employee is unable by reason of physical or mental incapacity to give the notice, or fails to do so on account of mistake of fact, may not be included in the 90-day period specified computation of proper notice. In case of the death of the employee within that period, there is allowed for giving the notice 3 months after the death.

**Sec. 18. 39-A MRSA §306, sub-§1,** as enacted by PL 1999, c. 354, §6 and affected by §10, is amended to read:

**1. Statute of limitations.** Except as provided in this section, a petition brought under this Act is barred unless filed within 2 years after the date of injury or the date the employee's employer files a required first report of injury as if required in section 303, whichever is later.

**Sec. 19. 39-A MRSA §320, 2nd ¶,** as amended by PL 2003, c. 608, §13, is further amended to read:

If a hearing officer asks for review, the time for appeal to the ~~Law Court~~ Appellate Division pursuant to section ~~322~~ 321-B is stayed and no further action may be taken until a decision of the board has been made. If the board reviews a decision of a hearing officer, any appeal must be from the decision of the board. The time for appeal begins upon the board's

issuance of a written decision on the merits of the case or written notice that the board denies review.

**Sec. 20. 39-A MRSA §§321-A and 321-B** are enacted to read:

**§321-A. Appellate Division**

**1. Establishment.** There is established within the board the Appellate Division, referred to in this subchapter as "the division."

**2. Composition.** The division is composed of full-time hearing officers who are appointed by the executive director of the board to serve on panels to review decisions under section 318. The executive director of the board shall appoint no fewer than 3 full-time hearing officers to serve as members of a panel. A hearing officer may not serve as a member of a panel that reviews a decision of that hearing officer. A hearing officer may be a member of more than one panel at the discretion of the executive director of the board.

**3. Rules.** The board shall adopt rules of procedure designed to provide a prompt and inexpensive review of a decision by a hearing officer. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**§321-B. Appeal from hearing officer decision**

**1. Procedure.** An appeal of a decision by a hearing officer pursuant to section 318 to the division must be conducted pursuant to this subsection.

A. A party in interest may file with the division a notice of intent to appeal a decision by a hearing officer pursuant to section 318 within 20 days after receipt of notice of the filing of the decision by the hearing officer.

B. At the time of filing an appeal under this section, the appellant shall file with the division a copy of the decision, order or agreement appealed. The failure of an appellant who timely files an appeal in accordance with paragraph A to provide a copy of the decision, order or agreement does not affect the jurisdiction of the division to determine the appeal on its merits unless the appellee shows substantial prejudice from that failure.

**2. Basis.** A finding of fact by a hearing officer is not subject to appeal under this section.

**3. Action.** The division, after due consideration, may reverse or modify a decree of a hearing officer and shall issue a written decision. The written decision of the division must be filed with the board and mailed to the parties or their counsel.

**4. Publication of decisions.** The division shall publish the decisions issued under subsection 3 and make them available to the public at such cost as is

required to pay for suitable publication. The division shall distribute copies of all written decisions to the State Law Library and the county law libraries.

**Sec. 21. 39-A MRSA §322, sub-§1,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**1. Appeals.** Any party in interest may present a copy of the decision of ~~a hearing officer~~ the division or a decision of the board, if the board has reviewed a decision pursuant to section 320, to the clerk of the Law Court within 20 days after receipt of notice of the filing of the decision by the ~~hearing officer~~ division or the board. Within 20 days after the copy is filed with the Law Court, the party seeking review by the Law Court shall file a petition seeking appellate review with the Law Court that sets forth a brief statement of the facts, the error or errors of law that are alleged to exist and the legal authority supporting the position of the appellant.

See title page for effective date.

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**CHAPTER 648**

**S.P. 681 - L.D. 1909**

**An Act To Simplify the  
Certificate of Need Process and  
Lessen the Regulatory Burden  
on Providers**

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

**Sec. 1. 22 MRSA §328, sub-§22, ¶B,** as enacted by PL 2001, c. 664, §2, is amended to read:

B. A group of ~~40~~ 5 persons residing or located within the health service area served or to be served by the applicant;

**Sec. 2. 22 MRSA §333, sub-§1, ¶A-1,** as amended by PL 2011, c. 424, Pt. B, §2 and affected by Pt. E, §1, is further amended to read:

A-1. ~~Beginning with anniversary dates occurring after July 1, 2007, annually~~ Annually provide notice to the department no later than 30 days after the anniversary date of the effective date of the license reduction July 1st of each year of the nursing facility's intent to retain these reserved beds, subject to the limitations set forth in subsection 2, paragraph B. Notice provided under this paragraph preserves the reserved beds through June 30th of the following year. The annual notice on reserved beds may be filed by an individual nursing facility or by multiple nursing facilities through a membership organization approved by the department by a single filing; and

**Sec. 3. 22 MRSA §333, sub-§2**, as amended by PL 2011, c. 424, Pt. B, §4 and affected by Pt. E, §1, is further amended to read:

**2. Expedited review.** Except as provided in subsection 1, paragraph B, an application for a certificate of need to reopen beds reserved in accordance with this section must be processed on an expedited basis in accordance with rules adopted by the department providing for shortened review time and for a public hearing if requested by a ~~directly affected~~ person directly affected by a review. The department shall consider and decide upon these applications as follows:

A. Review of applications that meet the requirements of this section must be based on the requirements of section 335, subsection 7, except that the determinations required by section 335, subsection 7, paragraph B must be based on the historical costs of operating the beds and must consider whether the projected costs are consistent with the costs of the beds prior to closure, adjusted for inflation; and

B. If the nursing facility fails to provide the annual notices required by subsection 1, paragraph B, the nursing facility's ability to convert beds back under this section lapses, and the beds must be treated as lapsed beds for purposes of this section and sections 333-A and 334-A.

**Sec. 4. 22 MRSA §333-A, sub-§3-A**, as enacted by PL 2011, c. 424, Pt. B, §8 and affected by Pt. E, §1, is amended to read:

**3-A. Transfers between nursing facility and residential care facility.** A nursing facility may delicense and sell or transfer beds to a residential care facility for the purpose of permitting the residential care facility to add MaineCare-funded beds to meet identified needs for such beds. Such a transfer does not require a certificate of need but is subject to prior approval of the department on an expedited basis. The divisions within the department that are responsible for licensing and MaineCare reimbursement for nursing facilities and residential care facilities shall work cooperatively to review and consider whether to approve such transfers on an expedited basis. When the average then current occupancy rate for existing state-funded residential care beds within 30 miles of the applicant facility is 80% or less, the department in its review under section 335 shall evaluate the impact that the proposed additional state-funded residential care beds would have on these existing state-funded residential care beds and facilities. Beds and MaineCare resources transferred pursuant to this subsection are not subject to the nursing facility MaineCare funding pool. In order for the department to approve delicensing, selling or transferring under this subsection, the department must determine that any increased MaineCare residential care costs associated with the converted beds are fully offset by reductions in the

MaineCare costs from the reduction in MaineCare nursing facility costs associated with the converted beds.

**Sec. 5. 22 MRSA §334-A, sub-§1-A, ¶B**, as enacted by PL 2011, c. 424, Pt. B, §10 and affected by Pt. E, §1, is amended to read:

B. Petitioners proposing such projects may elect not to participate in a competitive review under paragraph A and the projects may be approved if:

(1) The petitioner, or one or more nursing facilities or residential care facilities or combinations thereof under common ownership or control, has agreed to delicense a sufficient number of beds from the total number of currently licensed or reserved beds, or is otherwise reconfiguring the operations of such facilities, so that the MaineCare savings associated with such actions are sufficient to fully offset any incremental MaineCare costs that would otherwise arise from implementation of the certificate of need project and, as a result, there are no net incremental MaineCare costs arising from implementation of the certificate of need project; or

(2) The petitioner, or one or more nursing facilities or residential care facilities or combinations thereof under common ownership or control, has acquired bed rights from another nursing facility or facilities or residential care facility or facilities or combinations thereof that agree to delicense beds or that are ceasing operations or otherwise reconfiguring their operations, and the MaineCare revenues associated with these acquired bed rights and related actions are sufficient to cover the additional requested MaineCare costs associated with the project. The divisions within the department that are responsible for licensing and MaineCare reimbursement for nursing facilities and residential care facilities shall work cooperatively to review and consider whether to approve such projects.

With respect to the option described in this paragraph, when the average then current occupancy rate for existing nursing facility beds at facilities within 30 miles of the applicant facility exceeds 85%, the department in its review under section 335 shall evaluate the impact that the proposed additional nursing facility beds would have on those existing nursing facility beds and facilities and shall determine whether to approve the request based on current certificate of need criteria and methodology.

Certificate of need projects described in this paragraph are not subject to or limited by the nursing facility MaineCare funding pool.

**Sec. 6. 22 MRSA §335, sub-§1-A**, as enacted by PL 2003, c. 469, Pt. C, §9, is amended to read:

**1-A. Competitive review.** The commissioner ~~shall~~ may review applications ~~periodically~~ on a competitive basis if the applications propose the same or similar services.

**Sec. 7. 22 MRSA §335, sub-§2**, as amended by PL 2007, c. 440, §15, is further amended to read:

**2. Communications.** ~~Except as otherwise provided in this Act, only a person who is a full time employee of the department with responsibilities for the certificate of need program, a consultant to the project or a policy expert pursuant to section 338 may communicate with the commissioner regarding any application for a certificate of need or any letter of intent. Nothing in this section limits the authority or obligation of the staff Staff of the department with responsibility for the certificate of need program to may meet with, or otherwise communicate with, any person who is not a department employee and who wants to provide information to be considered in connection with an application for a certificate of need.~~

**Sec. 8. 22 MRSA §335, sub-§3**, as amended by PL 2007, c. 440, §16, is further amended to read:

**3. Limited communications.** ~~Except as otherwise provided in this chapter, a person who is not a department employee may not communicate with any department staff regarding the merits of a certificate of need application except for the purpose of placing that person's views in the application record. All communications regarding any letter of intent or application with the commissioner or with department staff responsible for the certificate of need program from any person who is not a department employee that the department staff reasonably believes is intended to influence the analyses relating to or the decision regarding an application for certificate of need must be made part of the record described in subsection 5-A. If such communications are not in written form or part of public meetings, these communications must be noted in writing by the commissioner or by that department staff and that notation must be made part of the application record.~~

**Sec. 9. 22 MRSA §335, sub-§5-A, ¶I**, as enacted by PL 2007, c. 440, §18, is amended to read:

I. Except with regard to a project related to nursing facility services, or a project that qualifies for a simplified review process under section 336, the commissioner may require a written assessment by the Superintendent of Insurance of the impact of the project on the cost of insurance in the region and the State. The superintendent may request additional information from the applicant for the purpose of reviewing the application. Any such request must be transmitted through the de-

partment and becomes part of the official record. The applicant shall respond to the request within 30 days. Any such response must be transmitted through the department and becomes part of the official record. The inability of the superintendent to complete the review of the application due to the failure of the applicant to respond timely must be noted in the superintendent's assessment filed with the department and may be cause for the commissioner ~~to delay consideration of the application until the next review cycle or to deny approval of the project.~~

**Sec. 10. 22 MRSA §335, sub-§6**, as amended by PL 2009, c. 383, §8, is repealed and the following enacted in its place:

**6. Maintenance of the record.** The record created pursuant to subsection 5-A first opens on the day the department receives a certificate of need application. From that day, all of the record is a public record. The letter of intent becomes a public record upon the receipt of the letter and is available for review from the date of receipt. Any person may examine all or part of the public record and purchase copies of any or all of that record during the normal business hours of the department.

A. The department shall accept public comments and additional information from the applicant for a period of 30 days after the public informational meeting held under section 337, subsection 5 or the public hearing held under section 339, subsection 2, whichever is later. The record will then close until public notice that the preliminary staff analysis has been made part of the record.

B. A technical assistance meeting with the department must be scheduled at least 10 days before the department publishes the preliminary analysis of a certificate of need application. At the technical assistance meeting the department shall:

(1) Give applicants an opportunity to hear whether the certificate of need application is likely to be approved or denied;

(2) Give applicants an opportunity to address issues and concerns expressed by the department regarding compliance with this chapter; and

(3) Give applicants an opportunity to offer additional information to the department.

Any additional information submitted by the applicant becomes part of the public record. The department shall complete its review after the technical assistance meeting and before the department publishes the preliminary analysis.

C. The department shall give notice that the preliminary analysis is complete and part of the public record by publication in a newspaper of gen-

eral circulation in Kennebec County, in a newspaper published within the service area of the project and on the department's publicly accessible website.

D. The public and the applicant may submit comments on the preliminary analysis for 15 business days after the notice is published under paragraph C.

E. The department may determine to reopen the record in circumstances that it determines to be appropriate for a limited time to permit submission of additional information, as long as the department gives public notice consistent with the provisions of this subsection.

**Sec. 11. 22 MRSA §335, sub-§7**, as amended by PL 2011, c. 90, Pt. J, §6, is further amended to read:

**7. Expanded review process; approval.** Except as provided in section 334-A, subsection 2-B with respect to emergency nursing facility projects, section 336 with respect to the simplified review process and subsection 9 of this section with respect to emergency certificates of need, the commissioner, or the commissioner's designee in the case of a simplified review under section 336 or an emergency review, shall issue a certificate of need if the commissioner or the commissioner's designee determines and makes specific written findings regarding that determination that:

A. The applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant's control meets industry standards. If the applicant is a provider of health care services that are substantially similar to those services being reviewed and is licensed in the State, the requirements of this paragraph are deemed to have been met if the services previously provided in the State by the applicant are consistent with applicable licensing and certification standards;

B. The economic feasibility of the proposed services is demonstrated in terms of the:

(1) Capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and

(2) Applicant's ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules. If the applicant is a provider of health care services that are substantially similar to those

services being reviewed and is licensed in the State, the applicant is deemed to have fulfilled the requirements of this subparagraph if the services provided in the State by the applicant during the most recent 3-year period are of similar size and scope and are consistent with applicable licensing and certification standards;

C. There is a public need for the proposed services as demonstrated by certain factors, including, but not limited to:

(1) Whether, and the extent to which, the project will substantially address specific health problems as measured by health needs in the area to be served by the project;

(2) Whether the project will have a positive impact on the health status indicators of the population to be served;

(3) Whether the services affected by the project will be accessible to all residents of the area proposed to be served; and

(4) Whether the project will provide demonstrable improvements in quality and outcome measures applicable to the services proposed in the project;

D. The proposed services are consistent with the orderly and economic development of health facilities and health resources for the State as demonstrated by:

(1) The impact of the project on total health care expenditures after taking into account, to the extent practical, both the costs and benefits of the project and the competing demands in the local service area and statewide for available resources for health care;

(2) The availability of state funds to cover any increase in state costs associated with utilization of the project's services; and

(3) The likelihood that more effective, more accessible or less costly alternative technologies or methods of service delivery may become available; and

E. The project meets the criteria set forth in subsection I.

In making a determination under this subsection, the commissioner ~~shall~~ may use data from the Maine Health Data Organization established in chapter 1683 and other information available to the commissioner to the extent such data and information is applicable to the determination being made. Particular weight must be given ~~The commissioner may give appropriate weight~~ to information that indicates that the proposed health services are innovations in high-quality health care delivery, that the proposed health services are not

reasonably available in the proposed area and that the facility proposing the new health services is designed to provide excellent quality health care.

**Sec. 12. 22 MRSA §336**, as amended by PL 2009, c. 383, §9, is further amended to read:

**§336. Simplified review and approval process**

Notwithstanding the requirements set forth in section 335, the department shall conduct a simplified review and approval process in accordance with this section: unless a public hearing has been requested pursuant to section 339, subsection 2, paragraph D, in which case the project is subject to the expanded review in section 335. The department shall by rule set forth this simplified review and approval process. To the extent practicable, a simplified review must be completed and the commissioner shall make a decision within 60 days after the application has been certified as complete by the applicant pursuant to section 337, subsection 4, unless a hearing is requested by a person directly affected by a review or the commissioner determines to hold a hearing. The following projects may qualify for a simplified review process:

**1. Maintenance projects.** The commissioner shall issue a certificate of need for a project that primarily involves the maintenance of a health facility if the commissioner determines that the project:

- A. Will result in no or a minimal additional expense to the public or to the health care facility's clients;
- B. Will be in compliance with other applicable state and local laws and regulations; and
- C. Will significantly improve or, in the alternative, not significantly adversely affect the health and welfare of any person currently being served by the health care facility.

**2. Life safety codes; previous certificate of need.** The commissioner shall issue a certificate of need for a project that is required ~~solely~~ to meet federal, state or local life safety codes ~~if the project involves a health facility, major medical equipment or a new health service that has previously received a certificate of need.~~

**3. Acquisition of control.** The commissioner shall issue a certificate of need for a project that involves the acquisition of control of a health facility when the acquisition consists of a management agreement or similar arrangement and primarily involves the day-to-day operation of the facility in its current form, or transfers ownership of a nursing facility to an existing provider of nursing facility services licensed in this State if the commissioner determines that the project meets the requirements of section 335, subsection 7, paragraph B and that the project is economically feasible in light of its impact on:

- A. The operating budget of the facility and the applicant; and
- B. The applicant's ability to operate the facility without increases in the facility's rates beyond those that would otherwise occur absent the acquisition.

**4. Capital expenditures for compliance or quality improvement.** The commissioner shall issue a certificate of need for a proposed capital expenditure upon determining that:

- A. The capital expenditure is required to eliminate or prevent imminent safety hazards, as defined by applicable fire, building or life safety codes and regulations; to comply with state licensure standards; to provide demonstrable improvements in patient safety or quality of care; or to comply with accreditation or certification standards that must be met to receive reimbursement under the United States Social Security Act, Title XVIII or payments under a state plan for medical assistance approved under Title XIX of that Act;
- B. The economic feasibility of the project is demonstrated in terms of its effects on the operating budget of the applicant, including its existing rate structure;
- C. There remains a public need for the service to be provided; and
- D. The corrective action proposed by the applicant is ~~the most~~ a cost-effective alternative available under the circumstances.

**5. Major medical equipment.** The commissioner shall issue a certificate of need for replacement of major medical equipment that is not otherwise exempt from review pursuant to section 329, subsection 2-A, paragraph B, subparagraph (1) upon determining that a project meets the requirements of section 335, subsection 7.

**6. Other projects.** The commissioner may by rule identify other categories of projects that qualify for simplified review under this section that are consistent with the purposes of this section and will foster timely review and approval for qualifying projects.

**Sec. 13. 22 MRSA §337, sub-§2, ¶B**, as amended by PL 2011, c. 424, Pt. D, §1 and affected by Pt. E, §1, is further amended to read:

- B. Within 15 days of filing the letter of intent, the applicant shall schedule a meeting with the department staff in order to assist the department in understanding the application and to receive technical assistance concerning the nature, extent and format of the documentary evidence, statistical data and financial data required for the department to evaluate the proposal. ~~The department may not accept an application for review until the appli-~~

~~licant has satisfied this technical assistance requirement. The applicant may waive the technical assistance meeting requirement under this paragraph.~~

**Sec. 14. 22 MRSA §337, sub-§3**, as enacted by PL 2001, c. 664, §2, is amended to read:

**3. Application content; department-approved forms.** An application for a certificate of need must describe with specificity how the proposed project meets each of the ~~conditions~~ standards for granting a certificate of need ~~required by this chapter that are applicable to the project.~~ A statement or statements that the project will meet the ~~conditions~~ standards without supporting facts backed by relevant documentation and analysis constitute sufficient cause to deny the application. An application subject to ~~full an expanded~~ review must contain, if available and relevant to the particular service or technology, information on health status, public health need for the service or technology, quality assurance processes and prevention programs.

A. The department shall make available on the department's publicly accessible website multiple project-specific, department-approved certificate of need forms for at least the following certificate of need categories:

- (1) Nursing facility projects;
- (2) Hospital projects; and
- (3) Other projects subject to review.

B. The department-approved forms must set forth application elements that are relevant to each category and must elicit the information and data reasonably necessary to permit the department to carry out the review and approval process in a timely and cost-effective manner, with consideration for the costs and responsibilities imposed on applicants.

C. Submission of the completed applicable department-approved forms and required information, together with other information that is appropriate to the application, and the applicant's certification that the application is complete pursuant to subsection 4 constitutes a sufficient record for the department to make a determination regarding the application for a certificate of need, unless a hearing is requested either by the department or by a person directly affected by a review.

D. If an application is contested by another provider of services or a person directly affected by a review or the department determines that a public hearing must be held pursuant to section 339, subsection 2, additional information may be required by the department.

**Sec. 15. 22 MRSA §337, sub-§5**, as amended by PL 2011, c. 424, Pt. D, §2 and affected by Pt. E, §1, is further amended to read:

**5. Public notice; public informational meeting.** Within 5 business days of the filing of a certificate by an applicant that a complete certificate of need application is on file with the department, public notice that the application has been filed ~~and that a public informational meeting must be held regarding the application~~ must be given by publication in a newspaper of general circulation in Kennebec County and in a newspaper published within the service area in which the proposed expenditure will occur. The notice must also be provided to all persons who have requested notification by means of asking that their names be placed on a mailing list maintained by the department for this purpose. The notice must also be published on the department's publicly accessible website. This notice must include:

A. A brief description of the proposed expenditure or other action;

B. A description of the review process and schedule;

C. A statement that any person may examine the application, submit comments in writing to the department regarding the application and examine the entire record assembled by the department at any time from the date of publication of the notice until the application process is closed for comment; ~~and~~

D. ~~The~~ If a public informational meeting is being held, the time and location of the public informational meeting ~~and~~, a statement that any person may appear at the meeting to question the applicant regarding the project or the department regarding the conditions ~~that~~ the applicant must satisfy in order to receive a certificate of need for the project, ~~and~~ a statement that a public hearing may be requested by any person directly affected by a review if the request is received by the commissioner within 15 days following the public informational meeting pursuant to the provisions of section 339, subsection 2; and

E. If a public informational meeting is not being held, a statement that a public hearing may be requested by any person directly affected by a review if the request is received by the commissioner within 15 days following the publication of the notice that an application has been filed.

The department shall make an electronic or stenographic record of the public informational meeting.

A public informational meeting is not required for the simplified review and approval process in section 336 unless requested by the applicant, the department or a person directly affected by a review.

**Sec. 16. 22 MRSA §337, sub-§7**, as enacted by PL 2001, c. 664, §2, is amended to read:

7. **Fees.** The department shall adopt rules setting minimum and maximum filing fees under this chapter. A nonrefundable filing fee must be paid at the time an application is filed ~~with the department~~. If the approved capital expenditure or operating cost upon which ~~the fees were a fee is~~ based is higher than the initially proposed capital expenditure, then the filing fee must be recalculated and the difference ~~in fees~~, if any, must be paid before the certificate of need may be issued. In addition to filing fees, the department shall adopt rules to establish reasonable and necessary fees to carry out the provisions of this chapter. All fees received by the department under this subsection must be placed in a separate, nonlapsing account to be used in accordance with this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 17. 22 MRSA §337, sub-§8** is enacted to read:

**8. Suspension of review.** An applicant may request and be granted a suspension of the review process prior to the date on which the department staff submits its final analysis to the commissioner.

A. A request for suspension of the review process must be for specific periods of no less than 10 days and not greater than 12 months.

B. If there are no competing applicants, a request under this subsection must be granted.

C. If there are competing applicants, the request under this subsection must be reviewed and approved or disapproved within 3 business days, taking into account the interests of the public and of competing applicants.

D. If a request to suspend the review is granted, the department shall determine:

(1) If the suspension will suspend review of all competing applications; or

(2) If the suspension will not affect competing applications, which will continue to be reviewed without interruption.

E. Failure to reactivate an application within the time period approved by the department results in automatic withdrawal of the suspended application.

**Sec. 18. 22 MRSA §338, sub-§1**, as amended by PL 2003, c. 469, Pt. C, §§13 and 14, is further amended to read:

**1. Consultation on new technologies and needs.** In connection with the development of policies and procedures to implement this Act, the commissioner

may, from time to time, consult with persons with relevant skills and experience regarding:

A. New medical technologies and the impact of those technologies on the health care delivery system in the State;

B. Unmet need for health care services in the State; ~~and~~

C. The quality of health care; ~~and~~

D. The need to replace, renovate or upgrade health care facilities to meet current and future needs.

**Sec. 19. 22 MRSA §339, sub-§2, ¶B**, as amended by PL 2011, c. 424, Pt. D, §3 and affected by Pt. E, §1, is further amended to read:

B. The commissioner, or the commissioner's designee, shall hold a public hearing if ~~5 persons residing or located within the health service area to be served by the applicant request~~ any person directly affected by a review requests, in writing, that such a public hearing be held and the request is timely received by the commissioner. If a public informational meeting on the application is conducted pursuant to section 337, subsection 5, the request for a public hearing must be received by the commissioner no later than 15 days following the informational hearing on the application conducted pursuant to section 337, subsection 5. If no public informational meeting is conducted, the request for a public hearing must be received within 15 days following the publication of the public notice required by section 337, subsection 5.

**Sec. 20. 22 MRSA §339, sub-§2, ¶D**, as enacted by PL 2009, c. 383, §12, is amended to read:

D. A public hearing is not required for the simplified review and approval process set forth in section 336 unless requested by the applicant, the department or a person directly affected by a review.

**Sec. 21. 22 MRSA §339, sub-§5**, as amended by PL 2011, c. 424, Pt. D, §4 and affected by Pt. E, §1, is further amended to read:

**5. Reviews.** To the extent practicable, a review must be completed and the commissioner shall make a decision within ~~45~~ 60 days after the application has been certified as complete by the applicant for a simplified review, or within 90 days for an expanded review. The department shall establish criteria for determining when it is not practicable to complete a review within ~~45 days~~ these time frames. Whenever it is not practicable to complete a review within ~~45 days~~ these time frames, the department may extend the review period for up to an additional 30 days.

**Sec. 22. 22 MRSA §339, sub-§6**, as amended by PL 2011, c. 424, Pt. D, §5 and affected by Pt. E, §1, is further amended to read:

**6. Public necessity.** The department may delay action on an otherwise complete application for up to ~~90~~ 120 days from the time the application has been certified as complete by the applicant if the department finds that a public necessity exists. The department shall provide written notice of the delay to the applicant and any other person who has requested in writing information regarding the application. For purposes of this subsection, the department shall find that a public necessity exists if:

- A. The application represents a new service or technology not previously provided within the State;
- B. The application represents a potential significant impact on health care system costs;
- C. The application represents a new service or technology for which a health care system need has not been previously established; or
- D. There are several applications for the same or similar projects before the department.

**Sec. 23. 22 MRSA §346, sub-§3**, as enacted by PL 2001, c. 664, §2, is amended to read:

**3. Issued certificate; duration and expiration.** After the issuance of a certificate of need, the department shall periodically review the progress of the holder of the certificate in meeting the timetable for making the service or equipment available or for completing the project specified in the approved application. A certificate of need expires if the project for which the certificate has been issued is not commenced within ~~12~~ 24 months following the issuance of the certificate. The department may grant an extension of a certificate for an additional specified time not to exceed 12 months if good cause is shown why the project has not commenced. The department may require evidence of the continuing feasibility and availability of financing for a project as a condition for extending the life of the certificate. In addition, if on the basis of its periodic review of progress under the certificate the department determines that the holder of a certificate is not otherwise meeting the timetable and is not making a good faith effort to meet it, the department may, after a hearing, withdraw the certificate of need. ~~The applicant shall issue to the department periodic reports as designated in the certificate of need approval notification on the impact of the service on the health status, quality of care and health outcomes of the population served. These reports may not be in less than 12 month intervals following the start of service approved in the certificate of need. The depart-~~

ment shall adopt rules for the withdrawal of certificates of need.

**Sec. 24. 22 MRSA §350-C**, as reallocated by RR 2001, c. 2, Pt. A, §32, is amended to read:

**§350-C. Implementation reports**

The holder of a certificate of need shall make written reports as provided in this section and as required by rule adopted by the department.

**1. Final plans and specifications.** A holder of a certificate of need that has been issued for the construction or modification of a facility or portion of a facility shall file final plans and specifications for the project as required by the department to determine that the plans and specifications are in compliance with the certificate of need and with applicable licensure, life safety code and accreditation standards.

**2. Reports.** ~~Periodic reports must be filed at the end of each 6 month period following the issuance of a certificate of need under section 335, subsection 7 or section 336 regarding implementation activities, obligations incurred and expenditures made and any other matters as the department may require. The department may require periodic reports, summary reports and cost and utilization reports as well as reports regarding the effect of the project on the health status, quality of care and health outcomes of the population served for no longer than 3 years following the completion of the project as set out in rule.~~

**3. Summary report.** ~~A summary report must be made when the service or services for which a certificate of need was issued become operational.~~

**4. Cost and utilization reports.** ~~For a period of one year following the implementation of the service or services for which a certificate of need was granted, the holder of the certificate of need shall file, at 6 month intervals, reports concerning the costs and utilization.~~

**5. Department action.** The department may revoke any certificate of need the department has issued when the person to whom it has been issued fails to file reports or plans and specifications required by ~~this section~~ the department on a timely basis. The department shall review services that fall below the required volume and quality standards of a certificate of need.

See title page for effective date.

**CHAPTER 649  
H.P. 1412 - L.D. 1907**

**An Act Making Supplemental Appropriations and Allocations for the Expenditures of State Government, Highway Fund and Other Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2012 and June 30, 2013**

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

**Whereas,** the 90-day period may not terminate until after the beginning of the next fiscal year; and

**Whereas,** certain obligations and expenses incident to the operation of state departments and institutions will become due and payable 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:**

**PART A**

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Departments and Agencies - Statewide 0016**

Initiative: Adjusts funding to offset savings that were not achieved in the Highway Fund related to the retirement incentive program authorized in Public Law 2011, chapter 380, Part Z.

HIGHWAY FUND	2011-12	2012-13
Personal Services	\$1,108,908	\$1,202,048
<b>HIGHWAY FUND TOTAL</b>	<b>\$1,108,908</b>	<b>\$1,202,048</b>

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
HIGHWAY FUND	\$1,108,908	\$1,202,048
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$1,108,908</b>	<b>\$1,202,048</b>

**MUNICIPAL BOND BANK, MAINE**

**Transcap Trust Fund Z064**

Initiative: Provides funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$93,325	\$32,501
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$93,325</b>	<b>\$32,501</b>

**Transcap Trust Fund Z064**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$108,987	\$103,807
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$108,987</b>	<b>\$103,807</b>

**MUNICIPAL BOND BANK, MAINE**

DEPARTMENT TOTALS	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	\$202,312	\$136,308
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$202,312</b>	<b>\$136,308</b>

**PUBLIC SAFETY, DEPARTMENT OF**

**Motor Vehicle Inspection 0329**

Initiative: Provides funding for the replacement of vehicles.

HIGHWAY FUND	2011-12	2012-13
Capital Expenditures	\$0	\$51,500
<b>HIGHWAY FUND TOTAL</b>	<b>\$0</b>	<b>\$51,500</b>

**State Police 0291**

Initiative: Transfers one Forensic Chemist I position from the Fire Marshal - Office of program to the State Police program.

HIGHWAY FUND	2011-12	2012-13
Personal Services	\$0	\$36,007
All Other	\$0	\$503
<b>HIGHWAY FUND TOTAL</b>	<b>\$0</b>	<b>\$36,510</b>

**State Police 0291**

Initiative: Provides funding for building rental costs for the Regional Communications Center and the State Police troop currently in Orono.

HIGHWAY FUND	2011-12	2012-13
All Other	\$0	\$63,130
<b>HIGHWAY FUND TOTAL</b>	<b>\$0</b>	<b>\$63,130</b>

**State Police 0291**

Initiative: Provides funding for the approved retroactive range change of one Forensic Scientist - Dual Discipline position from range 25 to range 27. Funding for the General Fund portion for fiscal year 2011-12 will be through salary and benefits savings within the department.

HIGHWAY FUND	2011-12	2012-13
Personal Services	\$14,307	\$0
<b>HIGHWAY FUND TOTAL</b>	<b>\$14,307</b>	<b>\$0</b>

**State Police 0291**

Initiative: Eliminates one limited-period Detective position within the State Police Criminal Laboratory, computer crimes unit and transfers the savings to the All Other line category for fiscal year 2012-13 only to contract for services.

HIGHWAY FUND	2011-12	2012-13
Personal Services	\$0	(\$120,889)
All Other	\$0	\$120,889
<b>HIGHWAY FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**State Police - Support 0981**

Initiative: Provides funding for the approved retroactive reclassification of one Office Assistant II position to an Office Associate II position.

HIGHWAY FUND	2011-12	2012-13
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Personal Services	\$4,369	\$2,383
<b>HIGHWAY FUND TOTAL</b>	<b>\$4,369</b>	<b>\$2,383</b>

**Traffic Safety - Commercial Vehicle Enforcement 0715**

Initiative: Provides funding for the replacement of vehicles.

HIGHWAY FUND	2011-12	2012-13
Capital Expenditures	\$0	\$58,960
<b>HIGHWAY FUND TOTAL</b>	<b>\$0</b>	<b>\$58,960</b>

**Traffic Safety - Commercial Vehicle Enforcement 0715**

Initiative: Reallocates the cost of 11 Motor Carrier Inspector positions from 34% Federal Expenditures Fund and 66% Highway Fund to 37% Federal Expenditures Fund and 63% Highway Fund for 9 positions, 38% Federal Expenditures Fund and 62% Highway Fund for one position, 38.09% Federal Expenditures Fund and 61.91% Highway Fund for one position and one Contract/Grant Specialist position from 34% Federal Expenditures Fund and 66% Highway Fund to 100% Highway Fund within the same program.

HIGHWAY FUND	2011-12	2012-13
Personal Services	(\$1,574)	(\$1,714)
<b>HIGHWAY FUND TOTAL</b>	<b>(\$1,574)</b>	<b>(\$1,714)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	(\$925)	(\$785)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$925)</b>	<b>(\$785)</b>

PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS	2011-12	2012-13
<b>HIGHWAY FUND</b>	<b>\$17,102</b>	<b>\$210,769</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>(\$925)</b>	<b>(\$785)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$16,177</b>	<b>\$209,984</b>

**SECRETARY OF STATE, DEPARTMENT OF**

**Administration - Motor Vehicles 0077**

Initiative: Reduces funding for repayment of certificate of participation principal and interest for the computer migration project.

HIGHWAY FUND	2011-12	2012-13
All Other	(\$406,030)	(\$241,880)
<b>HIGHWAY FUND TOTAL</b>	<b>(\$406,030)</b>	<b>(\$241,880)</b>

**SECRETARY OF STATE,  
DEPARTMENT OF  
DEPARTMENT TOTALS**

	2011-12	2012-13
<b>HIGHWAY FUND</b>	<b>(\$406,030)</b>	<b>(\$241,880)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$406,030)</b>	<b>(\$241,880)</b>

**TRANSPORTATION, DEPARTMENT OF**

**Administration 0339**

Initiative: Reorganizes one Transportation Planning Analyst position to a Transportation Planning Specialist position. Reduces All Other to fund the reorganization.

HIGHWAY FUND	2011-12	2012-13
Personal Services	\$605	\$2,424
All Other	(\$605)	(\$2,424)
<b>HIGHWAY FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**Administration 0339**

Initiative: Transfers one Procurement and Contracting Specialist position from the Highway and Bridge Capital program, funded 40% Highway Fund, 5% Other Special Revenue Funds and 55% Federal Expenditures Fund to 100% Highway Fund in the Administration program effective March 1, 2012.

HIGHWAY FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$18,307	\$55,332
<b>HIGHWAY FUND TOTAL</b>	<b>\$18,307</b>	<b>\$55,332</b>

**Administration 0339**

Initiative: Transfers one Secretary Specialist position from the Administration program to the Highway and Bridge Capital program to be funded 40% Highway

Fund, 5% Other Special Revenue Funds and 55% Federal Expenditures Fund effective March 1, 2012.

HIGHWAY FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
Personal Services	(\$23,445)	(\$70,744)
<b>HIGHWAY FUND TOTAL</b>	<b>(\$23,445)</b>	<b>(\$70,744)</b>

**Administration 0339**

Initiative: Transfers one Transportation Worker I Crew position from the Fleet Services program to 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in the Suspense Receivable - Transportation program and one Inventory and Property Associate I position from the Fleet Services program to the Administration program effective March 1, 2012.

HIGHWAY FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$18,448	\$57,497
<b>HIGHWAY FUND TOTAL</b>	<b>\$18,448</b>	<b>\$57,497</b>

**Administration - Aeronautics 0294**

Initiative: Reorganizes the State Transit, Aviation and Rail Transportation Fund program by changing the account type of and renaming and disbursing the existing allocations to 6 Other Special Revenue Funds multimodal programs. The Multimodal - Passenger Rail program is a new program. The Public Transportation, Administration - Aeronautics, Railroad Assistance Program, Administration - Ports and Marine Transportation and State Transit, Aviation and Rail Transportation Fund programs are renamed to align with actual department operations. One Public Service Coordinator II position is reallocated from the State Transit, Aviation and Rail Transportation Fund program to the Multimodal - Ports and Marine program account. One Rail Technician position is reallocated from the State Transit, Aviation and Rail Transportation Fund program to the Multimodal - Freight - Motor Carrier account.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	\$55,000
All Other	\$0	\$857,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$912,000</b>

**Administration - Ports and Marine Transportation 0298**

Initiative: Transfers funding from the Administration - Ports and Marine Transportation program to the newly renamed Multimodal - Ports and Marine program. The existing Administration - Ports and Marine Transportation program and the Ports and Marine Transportation program will merge and be renamed the Multimodal - Ports and Marine program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$150,000)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$150,000)</b>

**Callahan Mine Site Restoration Z007**

Initiative: Transfers All Other to Personal Services to cover the cost of department personnel administering the project.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$15,000	\$5,000
All Other	(\$15,000)	(\$5,000)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**Fleet Services 0347**

Initiative: Transfers one Transportation Worker I Crew position from the Fleet Services program to 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in the Suspense Receivable - Transportation program and one Inventory and Property Associate I position from the Fleet Services program to the Administration program effective March 1, 2012.

FLEET SERVICES FUND - DOT	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
POSITIONS - FTE COUNT	(1.000)	(1.000)
Personal Services	(\$32,833)	(\$100,651)
<b>FLEET SERVICES FUND - DOT TOTAL</b>	<b>(\$32,833)</b>	<b>(\$100,651)</b>

**Highway and Bridge Capital 0406**

Initiative: Transfers one Office Associate II position and one Occupational Safety Engineer position funded 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in the Suspense Receivable - Transportation program to the Highway and Bridge Capital program, funded 40% Highway Fund, 55% Federal Expenditures Fund and 5% Other Special Revenue Funds effective March 1, 2012.

HIGHWAY FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	2.000	2.000
Personal Services	\$16,614	\$50,170
<b>HIGHWAY FUND TOTAL</b>	<b>\$16,614</b>	<b>\$50,170</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$22,845	\$68,986
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$22,845</b>	<b>\$68,986</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$2,079	\$6,271
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$2,079</b>	<b>\$6,271</b>

**Highway and Bridge Capital 0406**

Initiative: Transfers one Technician position, 2 Transportation Planning Specialist positions and one Public Service Manager II position from the Highway and Bridge Capital program to the Maintenance and Operations program and allocates their costs to 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% in the Suspense Receivable - Transportation program effective March 1, 2012.

HIGHWAY FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(4.000)	(4.000)
Personal Services	(\$43,690)	(\$132,717)
<b>HIGHWAY FUND TOTAL</b>	<b>(\$43,690)</b>	<b>(\$132,717)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	(\$60,073)	(\$182,487)

FEDERAL EXPENDITURES FUND TOTAL	(\$60,073)	(\$182,487)
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$5,462)	(\$16,592)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$5,462)	(\$16,592)

**Highway and Bridge Capital 0406**

Initiative: Transfers one Procurement and Contracting Specialist position from the Highway and Bridge Capital program, funded 40% Highway Fund, 5% Other Special Revenue Funds and 55% Federal Expenditures Fund to 100% Highway Fund in the Administration program effective March 1, 2012.

<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	(\$7,323)	(\$22,133)
HIGHWAY FUND TOTAL	(\$7,323)	(\$22,133)

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$10,069)	(\$30,433)
FEDERAL EXPENDITURES FUND TOTAL	(\$10,069)	(\$30,433)

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$915)	(\$2,766)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$915)	(\$2,766)

**Highway and Bridge Capital 0406**

Initiative: Transfers one Secretary Specialist position from the Administration program to the Highway and Bridge Capital program to be funded 40% Highway Fund, 5% Other Special Revenue Funds and 55% Federal Expenditures Fund effective March 1, 2012.

<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$9,378	\$28,298

HIGHWAY FUND TOTAL	\$9,378	\$28,298
<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$12,895	\$38,909
FEDERAL EXPENDITURES FUND TOTAL	\$12,895	\$38,909

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$1,172	\$3,537
OTHER SPECIAL REVENUE FUNDS TOTAL	\$1,172	\$3,537

**Highway and Bridge Capital 0406**

Initiative: Provides funding to the Highway and Bridge Capital program for capital improvements to Maine's highway system.

<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Capital Expenditures	\$1,807,370	\$1,807,370
HIGHWAY FUND TOTAL	\$1,807,370	\$1,807,370

**Highway and Bridge Capital 0406**

Initiative: Transfers All Other to Capital Expenditures for the municipal partnership initiative to more appropriately reflect the capital nature of these projects.

<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$2,000,000)	(\$5,000,000)
Capital Expenditures	\$2,000,000	\$5,000,000
HIGHWAY FUND TOTAL	\$0	\$0

**Island Ferry Service 0326**

Initiative: Transfers funding from the Island Ferry Service program to the newly renamed Multimodal - Island Ferry Service program. The existing Marine Highway Transportation program account and the Island Ferry Service program will merge and be renamed the Multimodal - Island Ferry Service program.

<b>ISLAND FERRY SERVICES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(75.500)

POSITIONS - FTE	0.000	(10.819)
COUNT		
Personal Services	\$0	(\$5,591,826)
All Other	\$0	(\$3,617,900)
	<hr/>	<hr/>
ISLAND FERRY SERVICES	\$0	(\$9,209,726)
FUND TOTAL		

**Maintenance and Operations 0330**

Initiative: Transfers one Office Associate II position and one Occupational Safety Engineer position funded 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in the Suspense Receivable - Transportation program to the Highway and Bridge Capital program, funded 40% Highway Fund, 55% Federal Expenditures Fund and 5% Other Special Revenue Funds effective March 1, 2012.

<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS -	(2.000)	(2.000)
LEGISLATIVE COUNT		
Personal Services	(\$37,507)	(\$113,249)
	<hr/>	<hr/>
HIGHWAY FUND TOTAL	(\$37,507)	(\$113,249)
<b>FEDERAL</b>	<b>2011-12</b>	<b>2012-13</b>
<b>EXPENDITURES FUND</b>		
Personal Services	(\$3,552)	(\$10,725)
	<hr/>	<hr/>
FEDERAL EXPENDITURES	(\$3,552)	(\$10,725)
FUND TOTAL		

**Maintenance and Operations 0330**

Initiative: Transfers one Technician position, 2 Transportation Planning Specialist positions and one Public Service Manager II position from the Highway and Bridge Capital program to the Maintenance and Operations program and allocates their costs to 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% in the Suspense Receivable - Transportation program effective March 1, 2012.

<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS -	4.000	4.000
LEGISLATIVE COUNT		
Personal Services	\$98,620	\$299,579
	<hr/>	<hr/>
HIGHWAY FUND TOTAL	\$98,620	\$299,579

<b>FEDERAL</b>	<b>2011-12</b>	<b>2012-13</b>
<b>EXPENDITURES FUND</b>		
Personal Services	\$9,338	\$28,366
	<hr/>	<hr/>
FEDERAL EXPENDITURES	\$9,338	\$28,366
FUND TOTAL		

**Maintenance and Operations 0330**

Initiative: Transfers one Transportation Worker I Crew position from the Fleet Services program to 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in the Suspense Receivable - Transportation program and one Inventory and Property Associate I position from the Fleet Services program to the Administration program effective March 1, 2012.

<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - FTE	1.000	1.000
COUNT		
Personal Services	\$12,946	\$38,838
	<hr/>	<hr/>
HIGHWAY FUND TOTAL	\$12,946	\$38,838

<b>FEDERAL</b>	<b>2011-12</b>	<b>2012-13</b>
<b>EXPENDITURES FUND</b>		
Personal Services	\$1,295	\$3,884
	<hr/>	<hr/>
FEDERAL EXPENDITURES	\$1,295	\$3,884
FUND TOTAL		

**Maintenance and Operations 0330**

Initiative: Transfers funding from available Personal Services savings to All Other to be used for improvements to the transportation system. Savings in fiscal year 2012-13 will be achieved through management of vacancies.

<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$5,000,000)	(\$4,400,000)
All Other	\$5,000,000	\$4,400,000
	<hr/>	<hr/>
HIGHWAY FUND TOTAL	\$0	\$0

**Marine Highway Transportation Z016**

Initiative: Transfers funding from the Island Ferry Service program to the newly renamed Multimodal - Island Ferry Service program. The existing Marine Highway Transportation program account and the Island Ferry Service program will merge and be renamed the Multimodal - Island Ferry Service program.

ISLAND FERRY SERVICES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	75.500
POSITIONS - FTE COUNT	0.000	10.820
Personal Services	\$0	\$5,591,826
All Other	\$0	\$3,617,900
<b>ISLAND FERRY SERVICES FUND TOTAL</b>	<b>\$0</b>	<b>\$9,209,726</b>

**Motor Carrier Safety Program Z066**

Initiative: Transfers funding from the Motor Carrier Safety Program to the newly renamed Multimodal - Freight program. The Motor Carrier Safety Program and the Railroad Assistance Program will be merged and renamed the Multimodal - Freight program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$1,000,000)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,000,000)</b>

**Ports and Marine Transportation 0323**

Initiative: Reorganizes the State Transit, Aviation and Rail Transportation Fund program by changing the account type of and renaming and disbursing the existing allocations to 6 Other Special Revenue Funds multimodal programs. The Multimodal - Passenger Rail program is a new program. The Public Transportation, Administration - Aeronautics, Railroad Assistance Program, Administration - Ports and Marine Transportation and State Transit, Aviation and Rail Transportation Fund programs are renamed to align with actual department operations. One Public Service Coordinator II position is reallocated from the State Transit, Aviation and Rail Transportation Fund program to the Multimodal - Ports and Marine program account. One Rail Technician position is reallocated from the State Transit, Aviation and Rail Transportation Fund program to the Multimodal - Freight - Motor Carrier account.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$238,917
All Other	\$0	\$8,334

OTHER SPECIAL	\$0	\$247,251
<b>REVENUE FUNDS TOTAL</b>		

**Ports and Marine Transportation 0323**

Initiative: Transfers funding from the Administration - Ports and Marine Transportation program to the newly renamed Multimodal - Ports and Marine program. The existing Administration - Ports and Marine Transportation program and the Ports and Marine Transportation program will merge and be renamed the Multimodal - Ports and Marine program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	\$150,000
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$150,000</b>

**Public Transportation 0443**

Initiative: Reorganizes the State Transit, Aviation and Rail Transportation Fund program by changing the account type of and renaming and disbursing the existing allocations to 6 Other Special Revenue Funds multimodal programs. The Multimodal - Passenger Rail program is a new program. The Public Transportation, Administration - Aeronautics, Railroad Assistance Program, Administration - Ports and Marine Transportation and State Transit, Aviation and Rail Transportation Fund programs are renamed to align with actual department operations. One Public Service Coordinator II position is reallocated from the State Transit, Aviation and Rail Transportation Fund program to the Multimodal - Ports and Marine program account. One Rail Technician position is reallocated from the State Transit, Aviation and Rail Transportation Fund program to the Multimodal - Freight - Motor Carrier account.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	\$55,000
All Other	\$0	\$547,845
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$602,845</b>

**Railroad Assistance Program 0350**

Initiative: Reorganizes the State Transit, Aviation and Rail Transportation Fund program by changing the account type of and renaming and disbursing the existing allocations to 6 Other Special Revenue Funds multimodal programs. The Multimodal - Passenger Rail program is a new program. The Public Transportation,

Administration - Aeronautics, Railroad Assistance Program, Administration - Ports and Marine Transportation and State Transit, Aviation and Rail Transportation Fund programs are renamed to align with actual department operations. One Public Service Coordinator II position is reallocated from the State Transit, Aviation and Rail Transportation Fund program to the Multimodal - Ports and Marine program account. One Rail Technician position is reallocated from the State Transit, Aviation and Rail Transportation Fund program to the Multimodal - Freight - Motor Carrier account.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$250,000
All Other	\$0	\$3,414,000
Capital Expenditures	\$0	\$1,000,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$4,664,000</b>

**Railroad Assistance Program 0350**

Initiative: Transfers funding from the Motor Carrier Safety Program to the newly renamed Multimodal - Freight program. The Motor Carrier Safety Program and the Railroad Assistance Program will be merged and renamed the Multimodal - Freight program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	\$1,000,000
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$1,000,000</b>

**State Transit, Aviation and Rail Transportation Fund Z017**

Initiative: Reorganizes one Transportation Planning Analyst position to a Transportation Planning Specialist position. Reduces All Other to fund the reorganization.

STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	2011-12	2012-13
Personal Services	\$204	\$806
<b>STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND TOTAL</b>	<b>\$204</b>	<b>\$806</b>

**State Transit, Aviation and Rail Transportation Fund Z017**

Initiative: Reorganizes the State Transit, Aviation and Rail Transportation Fund program by changing the account type of and renaming and disbursing the existing allocations to 6 Other Special Revenue Funds multimodal programs. The Multimodal - Passenger Rail program is a new program. The Public Transportation, Administration - Aeronautics, Railroad Assistance Program, Administration - Ports and Marine Transportation and State Transit, Aviation and Rail Transportation Fund programs are renamed to align with actual department operations. One Public Service Coordinator II position is reallocated from the State Transit, Aviation and Rail Transportation Fund program to the Multimodal - Ports and Marine program account. One Rail Technician position is reallocated from the State Transit, Aviation and Rail Transportation Fund program to the Multimodal - Freight - Motor Carrier account.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	\$6,161
All Other	\$0	\$204,570
Capital Expenditures	\$0	\$2,100,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$2,310,731</b>

STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(2.000)
Personal Services	\$0	(\$562,896)
All Other	\$0	(\$8,173,931)
<b>STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND TOTAL</b>	<b>\$0</b>	<b>(\$8,736,827)</b>

**State Transit, Aviation and Rail Transportation Fund Z017**

Initiative: Reduces funding in the Multimodal Transportation Fund account as a result of eliminating the annual transfer of gasoline taxes authorized in Maine Revised Statutes, Title 36, section 2903-E.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	(\$100,000)

OTHER SPECIAL	\$0	(\$100,000)
REVENUE FUNDS TOTAL		

**Suspense Receivable - Transportation 0344**

Initiative: Transfers one Office Associate II position and one Occupational Safety Engineer position funded 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in the Suspense Receivable - Transportation program to the Highway and Bridge Capital program, funded 40% Highway Fund, 55% Federal Expenditures Fund and 5% Other Special Revenue Funds effective March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	(\$479)	(\$1,453)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$479)	(\$1,453)

**Suspense Receivable - Transportation 0344**

Initiative: Transfers one Technician position, 2 Transportation Planning Specialist positions and one Public Service Manager II position from the Highway and Bridge Capital program to the Maintenance and Operations program and allocates their costs to 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% in the Suspense Receivable - Transportation program effective March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$1,267	\$3,851
OTHER SPECIAL REVENUE FUNDS TOTAL	\$1,267	\$3,851

**Suspense Receivable - Transportation 0344**

Initiative: Transfers one Transportation Worker I Crew position from the Fleet Services program to 90.29% Highway Fund and 8.55% Federal Expenditures Fund in the Maintenance and Operations program and 1.16% Other Special Revenue Funds in the Suspense Receivable - Transportation program and one Inventory and Property Associate I position from the Fleet Services program to the Administration program effective March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$144	\$432

OTHER SPECIAL	\$144	\$432
REVENUE FUNDS TOTAL		

**Urban-Rural Initiative Program 0337**

Initiative: Adjusts funding for the Urban-Rural Initiative Program at the correctly proportioned rate in accordance with the Maine Revised Statutes, Title 23, section 1803-B.

HIGHWAY FUND	2011-12	2012-13
All Other	\$199,275	\$212,973
HIGHWAY FUND TOTAL	\$199,275	\$212,973

**TRANSPORTATION, DEPARTMENT OF DEPARTMENT TOTALS**

	2011-12	2012-13
HIGHWAY FUND	\$2,068,993	\$2,211,214
FEDERAL EXPENDITURES FUND	(\$27,321)	(\$83,500)
OTHER SPECIAL REVENUE FUNDS	(\$2,194)	\$8,630,107
FLEET SERVICES FUND - DOT	(\$32,833)	(\$100,651)
STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	\$204	(\$8,736,021)
ISLAND FERRY SERVICES FUND	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	\$2,006,849	\$1,921,149

**SECTION TOTALS**

	2011-12	2012-13
HIGHWAY FUND	\$2,788,973	\$3,382,151
FEDERAL EXPENDITURES FUND	(\$28,246)	(\$84,285)
OTHER SPECIAL REVENUE FUNDS	\$200,118	\$8,766,415
FLEET SERVICES FUND - DOT	(\$32,833)	(\$100,651)
STATE TRANSIT, AVIATION AND RAIL TRANSPORTATION FUND	\$204	(\$8,736,021)
ISLAND FERRY SERVICES FUND	\$0	\$0

SECTION TOTAL - ALL FUNDS	\$2,928,216	\$3,227,609
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SECTION TOTAL - ALL FUNDS	\$0	\$0
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**PART B**

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

**PUBLIC SAFETY, DEPARTMENT OF Traffic Safety 0546**

Initiative: RECLASSIFICATIONS

HIGHWAY FUND	2011-12	2012-13
Personal Services	\$6,051	\$5,524
All Other	(\$6,051)	(\$5,524)
HIGHWAY FUND TOTAL	\$0	\$0

**PUBLIC SAFETY, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
HIGHWAY FUND	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$0

**TRANSPORTATION, DEPARTMENT OF Administration 0339**

Initiative: RECLASSIFICATIONS

HIGHWAY FUND	2011-12	2012-13
Personal Services	\$2,069	\$2,068
All Other	(\$2,069)	(\$2,068)
HIGHWAY FUND TOTAL	\$0	\$0

**TRANSPORTATION, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
HIGHWAY FUND	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$0

SECTION TOTALS	2011-12	2012-13
HIGHWAY FUND	\$0	\$0

**PART C**

**Sec. C-1. Attrition savings.** Notwithstanding any other provision of law, the attrition rate for fiscal year 2012-13 is increased from 5% to 6% for executive branch departments and agencies and the judicial branch.

**Sec. C-2. Calculation and transfer; Highway Fund; attrition savings.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in Part A of this Act that applies against each Highway Fund account for executive branch departments and agencies statewide and the judicial branch as a result of attrition savings. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to allocations in fiscal year 2012-13.

**Sec. C-3. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Departments and Agencies - Statewide 0016**

Initiative: Reduces funding to reflect projected savings from the increase in the attrition rate from 5% to 6% for fiscal year 2012-13.

HIGHWAY FUND	2011-12	2012-13
Personal Services	\$0	(\$998,663)
HIGHWAY FUND TOTAL	\$0	(\$998,663)

**PART D**

**Sec. D-1. Calculation and transfer; Highway Fund savings; central administration.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in the Executive Branch Departments and Independent Agencies - Statewide program in the Department of Administrative and Financial Services in Part A of this Act that applies against each Highway Fund account for executive branch departments and independent agencies statewide from implementing a decrease in charges for services provided by the Department of Administrative and Financial Services, Division of Financial and Personnel Services. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to allocations in fiscal years 2011-12 and 2012-13.

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Recognizes savings from implementing a decrease in charges made by the Department of Administrative and Financial Services, Division of Financial and Personnel Services for its services.

HIGHWAY FUND	2011-12	2012-13
All Other	(\$281,257)	(\$355,423)
<b>HIGHWAY FUND TOTAL</b>	<b>(\$281,257)</b>	<b>(\$355,423)</b>

**PART E**

**Sec. E-1. 6 MRSA §54,** as amended by PL 2005, c. 457, Pt. GGG, §2, is further amended to read:

**§54. Fees**

Effective October 1, 2005, all All fees collected under this chapter must be deposited to the Treasurer of State, and by the Treasurer of State credited to the State Transit, Aviation and Rail Multimodal Transportation Fund established in Title 23, section 4210-B.

**Sec. E-2. 23 MRSA §4210-B,** as amended by PL 2011, c. 380, Pt. G, §§1 and 2 and affected by §3 and amended by c. 420, Pt. J, §§1 and 2 and affected by §3, is further amended to read:

**§4210-B. Multimodal Transportation Fund**

**1. Establishment of fund.** The ~~State Transit, Aviation and Rail Multimodal~~ Transportation Fund, referred to in this section as "the STAR Multimodal Transportation Fund" is established as an ~~enterprise fund~~ Other Special Revenue Funds program through the Department of Administrative and Financial Services. Funds appropriated, allocated, transferred or deposited in the account accrue interest earnings that must be used within the STAR Multimodal Transportation Fund.

**2. Establishment of program.** The department shall establish the STAR Multimodal Transportation Fund program through the Department of Administrative and Financial Services, Office of the State Controller.

**3. Use of funds.** The money deposited into and disbursed from the STAR Multimodal Transportation Fund must be used for the support of the activities of the STAR Transportation Fund to manage transit, aeronautics and rail transportation purposes of purchasing, operating, maintaining, improving, repairing, constructing and managing the assets of multimodal

forms of transportation, including, but not limited to, transit, aeronautics, marine and rail, of the State, municipalities and multimodal providers.

~~**4. Disbursements from fund.** Money disbursed from the STAR Transportation Fund may be used for the purpose of purchasing, operating, maintaining, improving, repairing, constructing and managing the assets of the STAR Transportation Fund including buildings, structures and improvements and equipment.~~

**5. Other fund sources.** The STAR Multimodal Transportation Fund may accept funds from other sources, including, but not limited to, the Federal Rail Administration, to carry out the provisions of this section.

**6. Financial management.** All assets including the cash balance, liabilities and equity in the Augusta State Airport Fund must be transferred to the STAR Multimodal Transportation Fund and accounted for in a manner prescribed by the Department of Administrative and Financial Services, Office of the State Controller.

**7. Sales tax revenue.** Beginning July 1, 2009 and every July 1st thereafter, the State Controller shall transfer to the STAR Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 50% of the revenue from the tax imposed on the value of rental of a pickup truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the first 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund under Title 30-A, section 5681, subsection 5. Beginning on October 1, 2009 and every October 1st thereafter, the State Controller shall transfer to the STAR Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 50% of the revenue from the tax imposed on the value of rental of a pickup truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the last 6 months of the prior fiscal year after the reduction for the transfer to the Local Government Fund. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law. The amount transferred from General Fund sales and use tax revenues does not affect the calculation for the transfer to the Local Government Fund.

This subsection is repealed June 30, 2012.

**7-A. Sales tax revenue.** Beginning July 1, 2012 and every July 1st thereafter, the State Controller shall

transfer to the ~~STAR~~ Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on the value of rental of a pickup truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the first 6 months of the prior fiscal year. Beginning on October 1, 2012 and every October 1st thereafter, the State Controller shall transfer to the ~~STAR~~ Multimodal Transportation Fund an amount, as certified by the State Tax Assessor, that is equivalent to 100% of the revenue from the tax imposed on the value of rental of a pickup truck or van with a gross weight of less than 26,000 pounds rented from a person primarily engaged in the business of renting automobiles and the value of rental for a period of less than one year of an automobile pursuant to Title 36, section 1811 for the last 6 months of the prior fiscal year. The tax amount must be based on actual sales for that fiscal year and may not consider any accruals that may be required by law.

**Sec. E-3. 23 MRSA §7103-A**, as enacted by PL 2005, c. 457, Pt. GGG, §5, is amended to read:

**§7103-A. Deposit into Multimodal Transportation Fund account**

~~Effective October 1, 2005, the~~ The Treasurer of State shall receive all revenue derived from the tax levied pursuant to Title 36, chapter 361 and taxes paid under Title 36, section 1865 and shall deposit all revenue in a separate account to be known as the State Transit, Aviation and Rail Multimodal Transportation Fund account established in section 4210-B.

**Sec. E-4. 36 MRSA §1865**, as amended by PL 2005, c. 457, Pt. GGG, §6, is further amended to read:

**§1865. Deposit of use taxes paid on certain fuels**

The Treasurer of State shall deposit all use taxes received for fuel consumed by vehicles operating on rails and qualifying for a fuel tax refund under section 3218 and taxed under this chapter into the ~~State Transit, Aviation and Rail~~ Multimodal Transportation Fund account established in Title 23, section ~~7103-A~~ 4210-B.

**Sec. E-5. 36 MRSA §2625**, as amended by PL 2005, c. 457, Pt. GGG, is further amended to read:

**§2625. Return and payment**

Every railroad company incorporated under the laws of this State or doing business in this State shall file with the State Tax Assessor annually, on or before April 15th, a railroad excise tax return, on a form prescribed by the State Tax Assessor. The tax must be paid in equal installments on the next June 15th, September 15th and December 15th. Except as otherwise provided in subsection 1, the Treasurer of State shall

deposit all taxes paid under this chapter into the ~~State Transit, Aviation and Rail~~ Multimodal Transportation Fund account established under Title 23, section ~~7103-A~~ 4210-B.

**Sec. E-6. 36 MRSA §2903-E**, as enacted by PL 2005, c. 457, Pt. GGG, §8, is repealed.

**Sec. E-7. 36 MRSA §2912**, as amended by PL 2005, c. 457, Pt. GGG, §9, is further amended to read:

**§2912. Records and reports regarding sales of fuels for aeronautical purposes**

~~Effective October 1, 2005, the~~ The tax received by the State on internal combustion engine fuels that are sold to be used for aeronautical purposes must accrue to the ~~State Transit, Aviation and Rail~~ Multimodal Transportation Fund. The necessary expenses of the collection of the tax on such fuels to be used for aeronautical purposes must be deducted.

**Sec. E-8. Rename Administration - Aeronautics program.** Notwithstanding any other provision of law, the Administration - Aeronautics program within the Department of Transportation is renamed the Multimodal - Aviation program.

**Sec. E-9. Rename Railroad Assistance Program.** Notwithstanding any other provision of law, the Railroad Assistance Program within the Department of Transportation is renamed the Multimodal - Freight program.

**Sec. E-10. Rename Marine Highway Transportation program.** Notwithstanding any other provision of law, the Marine Highway Transportation program within the Department of Transportation is renamed the Multimodal - Island Ferry Service program.

**Sec. E-11. Establish Multimodal - Passenger Rail program.** Notwithstanding any other provision of law, the Multimodal - Passenger Rail program is established within the Department of Transportation for the State funds used to assist in the operation of the Downeaster rail service operated by the Northern New England Passenger Rail Authority.

**Sec. E-12. Rename Administration - Ports and Marine Transportation program.** Notwithstanding any other provision of law, the Administration - Ports and Marine Transportation program within the Department of Transportation is renamed the Multimodal - Ports and Marine program.

**Sec. E-13. Rename State Transit, Aviation and Rail Transportation Fund program.** Notwithstanding any other provision of law, the State Transit, Aviation and Rail Transportation Fund program within the Department of Transportation is renamed the Multimodal Transportation Fund program.

**Sec. E-14. Rename Public Transportation program.** Notwithstanding any other provision of

law, the Public Transportation program within the Department of Transportation is renamed the Multimodal - Transit program.

**PART F**

**Sec. F-1. Lapsed balances; Highway Fund; Department of Secretary of State, Administration - Motor Vehicles program.** Notwithstanding any other provision of law, \$170,263 of unencumbered balance forward in the Personal Services line category in the Administration - Motor Vehicles program, Highway Fund account in the Department of the Secretary of State lapses to the Highway Fund no later than June 30, 2012.

**PART G**

**Sec. G-1. Carrying provision; Administration - Motor Vehicles; International Fuel Tax Agreement.** Notwithstanding any other provision of law, the State Controller shall carry forward any unexpended balance on June 30, 2012 up to \$600,000 in the All Other line category in the Administration - Motor Vehicles program, Bureau of Motor Vehicles within the Department of the Secretary of State to be used for the acquisition and installation of an international fuel tax agreement system to replace the IFTA Regional Processing Center in New York State.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.

Effective April 18, 2012.

**CHAPTER 650**

**H.P. 1353 - L.D. 1833**

**An Act To Encourage Enrollment in Electrical Education Programs**

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

**Sec. 1. 32 MRSA §1101, sub-§4-A,** as amended by PL 2011, c. 286, Pt. F, §4, is further amended to read:

**4-A. Supervision.** ~~One~~ Two apprentice electrician ~~or electricians,~~ one helper electrician ~~or 2 helper electricians who are both currently enrolled in, or have completed, a program of study consisting of 576 hours of education as approved by the Electricians' Examining Board or from an accredited institution may work with and under the direct supervision of each a~~ master electrician, limited electrician or journeyman electrician. A master electrician who teaches an electrical course at a Maine career and technical education center, a Maine career and technical education region, a Maine community college or an apprenticeship program registered by the Department of Labor may have a maximum of 12 helper or apprentice electricians under direct supervision while making electrical installations that are a part of the instructional program of the school or apprenticeship program, as long as the total value of each installation does not exceed \$5,000. An electrical installation may not be commenced pursuant to this subsection without the prior approval of the director or president of the school or apprenticeship program at which the master electrician is an instructor. These installations are limited to those done in buildings or facilities owned or controlled by:

A. School administrative units; and  
 B. Nonprofit organizations.

The Electricians' Examining Board and the municipal electrical inspector of the municipality in which the installation is to be made, if the municipality has an inspector, must be notified of all installation projects entered into pursuant to this subsection prior to the commencement of the project. There must be an inspection by a state electrical inspector or by the municipal electrical inspector of the municipality in which the installation has been made, if the municipality has an inspector, before any wiring on the project is concealed.

**Sec. 2. Rules.** The Director of the Office of Professional and Occupational Regulation within the Department of Professional and Financial Regulation shall amend its rules pertaining to the establishment of fees for helper electrician licenses to exempt a high school student or a community college student approved by the Electricians' Examining Board from paying the fee to obtain a helper electrician license.

**Sec. 3. Report on the increase in the ratio of helper and apprentice electricians working under a master electrician, limited electrician or journeyman electrician.** The Director of the Office of Professional and Occupational Regulation within the Department of Professional and Financial Regulation shall provide a report by February 1, 2014 to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters on the impact of the increase in the ratio of helper and apprentice electricians working under a master electrician, limited electrician or journeyman electrician and identify any safety issues or licensing concerns that may have arisen as a result of the increase in the ratio. The joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters is authorized to report out a bill on the issues raised by the increase in the ratio of helper and apprentice electricians to the Second Regular Session of the 126th Legislature.

See title page for effective date.

## CHAPTER 651

H.P. 1372 - L.D. 1854

**An Act To Expand Educational  
Opportunities for Maine  
Students**

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

**Sec. 1. 20-A MRSA §5205, sub-§6-A** is enacted to read:

**6-A. Interdistrict enrollment policies.** The school boards of 2 or more school administrative units may adopt mutual policies allowing the transfer of students, with parental approval, among the participating units. The policies must set forth procedures and standards governing the transfers, including but not limited to the school year or years in which the policy applies, application procedures and standards of responsibility for transportation and special education. Each school board adopting a policy under this subsection shall file a copy of the policy with the department prior to the effective date of that policy and shall provide timely notice of the policy to residents of the school administrative unit governed by that school board. For the purposes of chapter 606-B, a student transferred under this subsection is considered a resident of the school administrative unit to which the student transferred.

**Sec. 2. Department of Education to convene a stakeholder group to develop a public school choice model.** The Commissioner of Education, or a designee of the commissioner, shall convene a stakeholder group and shall invite the participation of a representative from the Maine School Board Association, the Maine Principals' Association, the Maine Education Association and the Maine Administrators of Services for Children with Disabilities; a superintendent from a rural part of the State and a superintendent from an urban part of the State, named by the Maine School Superintendents Association; and 6 other members, including parents and others with an interest in education issues, appointed by the Governor. The stakeholder group shall develop a publicly funded school choice model that addresses the difficulties inherent in transportation, funding, educating disadvantaged children and educating and transporting children receiving special education services.

The Commissioner of Education shall report the stakeholder group's findings, including a proposed public school choice model, to the joint standing committee of the Legislature having jurisdiction over education matters by January 14, 2013. The committee is authorized to introduce a bill related to the report to the First Regular Session of the 126th Legislature.

**Sec. 3. Superintendents' agreements revisited.** The Commissioner of Education shall commu-

nicate with superintendents and school boards of school administrative units and clarify the law with regard to superintendents' agreements regarding placement of students and interdistrict enrollment policies pursuant to the Maine Revised Statutes, Title 20-A, section 5205, subsection 6-A.

See title page for effective date.

## CHAPTER 652

S.P. 421 - L.D. 1367

**An Act To Restore Maine's  
Secondary Roads**

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

**Sec. 1. 5 MRSA §282, sub-§9**, as repealed and replaced by PL 2009, c. 655, Pt. B, §1, is amended to read:

**9. Energy infrastructure benefits fund.** To establish an energy infrastructure benefits fund. Except as otherwise provided by Title 35-A, section 122, ~~subsection~~ subsections 1-C and 6-B or any other law, including the Constitution of Maine, the fund consists of any revenues derived from the use of state-owned land and assets for energy infrastructure development pursuant to Title 35-A, section 122. Each fiscal year, the Treasurer of State shall transfer ~~80% of~~ revenues collected in the fund to the Efficiency Maine Trust for deposit by the Efficiency Maine Trust Board in program funds pursuant to Title 35-A, section 10103, subsection 4 and use by the trust in accordance with Title 35-A, section 10103, subsection 4-A ~~and 20% of revenues collected in the fund to the Department of Transportation for deposit in the Transportation Efficiency Fund established in Title 23, section 4210-E and use by the department in accordance with Title 23, section 4210-E, subsection 2.~~ For the purposes of this subsection, "energy infrastructure" and "state-owned" have the same meanings as in Title 35-A, section 122, subsection 1.

**Sec. 2. 23 MRSA §754, sub-§1**, as enacted by PL 1999, c. 473, Pt. C, §3, is amended to read:

**1. Jurisdiction.** Except as otherwise provided, all state and state aid highways within compact areas of urban compact municipalities, as defined in subsection 2, as determined by the department must be maintained in good repair by the town in which the highways are located at the expense of the town. Municipalities must be notified one year in advance of changes in compact or built-up sections that place additional maintenance responsibilities on the municipalities. Municipalities may waive the requirement of the one-year notice. When any town neglects to maintain the highways within 14 days after notice given its

municipal officers by the department, the department may proceed to make necessary repairs to that way, which must be paid for by the State and the cost for the repairs must be withheld from funds due the town under the ~~Urban Rural Initiative~~ Local Road Assistance Program, established in chapter 19, subchapter ~~¶4~~ 6. The amounts collected from these towns must be added to the fund for maintenance of state and state aid highways.

**Sec. 3. 23 MRSA §1654**, as amended by PL 1985, c. 737, Pt. B, §21, is repealed.

**Sec. 4. 23 MRSA §1654-A** is enacted to read:  
**§1654-A. Transfers from Highway Fund unallocated surplus**

At the close of each fiscal year, the State Controller shall transfer to the Department of Transportation, Secondary Road Program Fund, established in section 1803-C and referred to in this section as "the fund," the uncommitted balance in the Highway Fund unallocated surplus account. The amount transferred to the fund, when added to previous transfers to the fund for the fiscal year in which the uncommitted balance is transferred, may not exceed the program funding cap provided in section 1803-C, subsection 4. Any remaining uncommitted balance in the Highway Fund after the transfer to the fund must be transferred to the Department of Transportation, Highway and Bridge Capital program. The Commissioner of Transportation may allot these funds by financial order upon the recommendation of the State Budget Officer and the approval of the Governor. The transferred amounts are considered adjustments to allocations. Within 30 days after approval of the financial order, the Commissioner of Transportation shall provide to the joint standing committee of the Legislature having jurisdiction over transportation matters a report detailing the financial status of the Department of Transportation, Highway and Bridge Capital program.

For the purposes of this section, "uncommitted balance in the Highway Fund unallocated surplus account" or "uncommitted balance" means the amount remaining in the account at the close of the fiscal year after the deduction of all allocations, budgeted financial commitments and adjustments considered necessary by the State Controller.

The State Controller shall include in the State Controller's official annual financial report at the close of each fiscal year a statement showing all transfers made from the Highway Fund unallocated surplus account for the fiscal period.

**Sec. 5. 23 MRSA §1801**, as repealed and replaced by PL 1999, c. 473, Pt. D, §1, is amended to read:

**§1801. Findings and purpose**

Municipal transportation assistance funds must be targeted to the capital needs of rural roads and highways and must also reflect urban maintenance responsibilities on state and state aid roadways.

Municipal transportation assistance funds must be adjusted according to increases or decreases in Highway Fund resources available for transportation.

Responsibility for decisions regarding maintenance and improvement of roads must follow the principle that roads that primarily serve regional or statewide needs must be the State's responsibility, roads that primarily serve local needs must be a local responsibility and roads that primarily serve as minor collector routes and major collector routes may be improved through a partnership between municipalities and the State.

The Legislature recognizes that without municipal participation the State has few resources to make necessary capital improvements to state aid minor collector highways and state aid major collector highways.

The purpose of the ~~Urban Rural Initiative~~ Local Road Assistance Program established in this subchapter is to provide equitable financial assistance to communities for their use in improving local roads; and maintaining state roads in urban compact areas. The purpose of the Secondary Road Program Fund established in this subchapter is to establish a partnership between communities and assisting the State in making capital improvements to state aid minor collector highways and state aid major collector highways.

In order to meet the purposes set out in this section, the ~~Urban Rural Initiative~~ Local Road Assistance Program has a ~~Rural Road Initiative and an Urban Compact Initiative~~ rural road assistance and urban compact assistance funding as components.

**Sec. 6. 23 MRSA §1803-B**, as amended by PL 2001, c. 565, Pt. K, §1, is further amended to read:

**§1803-B. Local Road Assistance Program**

**1. Distribution and use of funds.** Funds from the ~~Urban Rural Initiative~~ Local Road Assistance Program must be distributed to each eligible municipality, county or Indian reservation ~~under the Rural Road Initiative and the Urban Compact Initiative~~ through rural road assistance and urban compact assistance funding as follows.

A. ~~Rural Road Initiative~~ road assistance funds must be distributed as follows.

- (1) Funds are distributed at a rate of \$600 per year per lane mile for all rural state aid minor collector roads and all public roads maintained by a municipality located outside urban compact areas as defined in section 754,

except that funds are distributed at a rate of \$300 per year per lane mile for all seasonal public roads.

(2) ~~Effective July 1, 2000, funds~~ Funds must be used for capital improvements as defined by this chapter, or for capital improvements to state aid minor collector ~~roads~~ highways and state aid major collector ~~highways~~ as described in ~~subsection 5~~ section 1803-C. In municipalities, counties and Indian reservations in which there are no rural state aid minor collector or major collector roads, funds may also be used for winter highway maintenance, acquisition of highway maintenance equipment or the construction of highway maintenance buildings if the governing legislative body affirmatively votes that its town ways and local bridges are in sufficiently good condition so as to not require significant repair or improvement for at least 10 years.

B. ~~Urban Compact Initiative~~ compact assistance funds must be distributed as follows.

(1) Funds are distributed at a rate of \$2,500 per year per lane mile for summer maintenance performed by municipalities on state and state aid highways in compact areas as defined in section 754. For each lane mile beyond the 2nd lane on a highway with more than 2 lanes, funds are reimbursed at a rate of \$1,250 per lane mile for summer maintenance in compact areas. Funds are distributed at a rate of \$1,700 per year per lane mile for winter maintenance performed by municipalities on state highways in compact areas as defined in sections 754 and 1001 regardless of the number of lanes.

(2) Funds must be used only for the maintenance or improvement of public roads.

C. The ~~Urban Rural Initiative~~ Local Road Assistance Program payment defined as the combined ~~Urban Compact Initiative~~ urban compact assistance and ~~Rural Road Initiative~~ rural road assistance annual payment to any municipality, county, or Indian reservation may not be less than the fiscal year 1999 Local Road Assistance Program payment.

D. Beginning July 1, 2001, the annual funding dedicated for the ~~Urban Rural Initiative~~ Local Road Assistance Program must bear the same percentage relationship to the sum of the General Fund and Highway Fund allocation to the ~~department~~ Department of Transportation for highway purposes as was provided during fiscal year 2000-01. On July 1, 2001 and every July 1st thereafter, the ~~commissioner~~ Commissioner of Transportation shall administratively adjust the

base funding and the reimbursement rates per lane mile proportionately according to revenue available.

**2. Retention of allocation for Local Road Assistance Program.** Prior to apportioning funds to each municipality, the ~~department~~ Department of Transportation shall retain sufficient funds from the allocation for the ~~Urban Rural Initiative~~ Local Road Assistance Program to ensure equitable funds are provided for roads in unorganized areas and for administration.

**3. Payment of funds.** One quarter of the funds apportioned to each municipality must be paid by the State to the municipality before September 1st, December 1st, March 1st and June 1st each year.

~~**5. State aid minor collector capital projects.** State aid minor collector capital projects as determined by the department are financed with contributions of Rural Road Initiative funds not to exceed 33% of project costs with the remainder provided by the State. Local funds other than Rural Road Initiative funds committed to the projects are matched by state funds at the discretion of the department and at a ratio that may exceed 33% of local funds. If the department is not allocated sufficient funds to match offered municipal funds, then the department must reject or defer any new municipal offers and award matching funds to municipalities with pending offers based on a priority order consistent with an established departmental 6-year plan for state aid minor collector capital projects.~~

~~**6. Municipal, county or Indian reservation administration.** Municipalities or counties or Indian reservations may choose to administer rural minor collector capital projects based on mutual agreement guided by policies and procedures adopted by the department. The state share must be available prior to construction or contract. Municipal, county or Indian reservation equipment and material contributions are included as part of the contribution of Rural Road Initiative funds. Project cost overruns or savings are shared by the municipality, county or Indian reservation and the State according to the cost sharing ratio established in subsection 5. State savings must be used for the purposes of state aid minor collector capital projects within the State. Municipal, county or Indian reservation savings may be used for any purpose allowed pursuant to subsection 1, paragraph A. At the discretion of the municipality, county or Indian reservation, project cost savings including matched state funds may accrue entirely toward additional or expanded minor collector state aid capital projects within that same jurisdiction.~~

**Sec. 7. 23 MRSA §1803-C** is enacted to read:

**§1803-C. Secondary Road Program Fund**

**1. Establishment.** The Secondary Road Program Fund, referred to in this section as "the fund," is established as a dedicated account within the Department of Transportation, referred to in this section as "the department." The fund must be used for capital improvements to state aid minor collector highways and state aid major collector highways. The department shall administer the fund.

**2. Revenue.** The fund receives the following revenue:

A. Amounts that are transferred to the fund from time to time by the Treasurer of State pursuant to:

(1) Title 5, section 282, subsection 9; and

(2) Title 35-A, section 122, subsection 6-B;

B. Amounts from unallocated balances in the Highway Fund as provided in section 1654-A; and

C. Other funds from any public or private source received for use for any of the purposes for which the fund has been established.

**3. Distribution and use of funds.** Up to 50% of project costs for a capital project on a state aid minor collector highway or state aid major collector highway as determined by the department may be financed from the fund with the remainder provided by the municipality, county or Indian reservation, except that the Commissioner of Transportation may authorize up to 80% of project costs for a capital project on a state aid minor collector highway or state aid major collector highway to be financed from the fund with the remainder provided by the municipality, county or Indian reservation if the municipality, county or Indian reservation demonstrates to the commissioner's satisfaction that the proposed project:

A. Addresses locations where there is a high incidence of vehicular accidents as defined by the department;

B. Creates a substantial number of new jobs for the region; or

C. Offers greater regional or statewide benefits relative to other similarly classified roads.

In determining local share of project costs for a capital project on a state aid minor collector highway or state aid major collector highway, the commissioner may consider the use of municipal, county or Indian reservation equipment, materials or in-kind services, an agreement to assume year-round capital and maintenance responsibilities for the project under consideration or a reduction in future Local Road Assistance Program payments.

A capital project on a state aid minor collector highway or state aid major collector highway may not be allotted funding from the Secondary Road Program

fund until the project and local financing is approved by a vote of the legislative body of the municipality, county or Indian reservation.

**4. Program funding cap.** The annual amount available for distribution under this section may not exceed \$4,000,000, and any remaining funds after all financial commitments have been made lapse to the department's Highway and Bridge Capital program within the Highway Fund at the end of each fiscal year.

**Sec. 8. 23 MRSA §1804**, as amended by PL 1999, c. 473, Pt. D, §5, is further amended to read:

**§1804. Municipal, county or Indian reservation requirements**

To be eligible to receive funds from the Urban-Rural Initiative Local Road Assistance Program, each municipality, county or Indian reservation shall, prior to August 1st each year, certify in a manner acceptable to the department that the funds are used in a manner consistent with this chapter. ~~To be guaranteed to receive state matching funds for any Rural Road Initiative funds directed to state aid minor collector capital projects, each municipality, county and Indian reservation, prior to May 1st of each even-numbered year, shall submit a 6-year plan to the department describing the intended state aid minor collector projects to be financed with funds currently available, funds provided over the 6-year period beginning July 1st of the following year and any other funds or financing. The report must include details sufficient to estimate needed state matching funds, and must indicate whether the municipality intends to administer the project. The report also must describe any funds held in reserve for future state aid minor collector projects.~~

**Sec. 9. 23 MRSA §1807**, as enacted by PL 2001, c. 681, §1, is amended to read:

**§1807. Transit bonus payment program**

In order to promote the purposes of the Sensible Transportation Policy Act set forth in section 73, a transit bonus payment program is established. The program is governed by the provisions of this section.

**1. Application.** A municipality that increases its qualifying expenditures for transit over a base year may apply to the department for a transit bonus to the municipality's Urban-Rural Initiative Local Road Assistance Program payment, as ~~defined~~ described in section 1803-B.

**2. Qualifying expenditures for transit.** As used in this section, "qualifying expenditures for transit" means a municipality's total annual expenditures derived from municipal revenue sources that are used for the operations of a seasonal or year-round transit service that has been established for at least 3 years and that provides scheduled service for at least 3 days per week.

**3. Use of funds.** All funds distributed pursuant to this section must be used for the purposes set forth in sections 1801 and 1803-B.

**4. Program funding cap.** The annual amount available for distribution under this section may not exceed 2.5% of the annual funding dedicated for the ~~Urban-Rural Initiative~~ Local Road Assistance Program. All funds not distributed each year lapse to the Department of Transportation, Highway and Bridge Capital program within the Highway Fund.

**5. Distribution of funds.** Beginning July 1, 2003, the department shall increase ~~an Urban-Rural Initiative~~ the Local Road Assistance Program payment for a municipality that applies under subsection 1 on a dollar-for-dollar basis. After the total of qualifying applications for reimbursement exceeds the annual amount available for distribution provided under subsection 4, funds must be apportioned according to the amount of each municipality's increase of qualifying expenditures, ridership or other factors determined by the department.

**6. Rules.** The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

**Sec. 10. 23 MRSA §4210-C, sub-§3,** as enacted by PL 2005, c. 457, Pt. GGG, §3, is amended to read:

**3. Calculation.** The account is not considered a General Fund appropriation or Highway Fund allocation for highway purposes in order to calculate the annual funding for the ~~Urban-Rural Initiative~~ Local Road Assistance Program pursuant to section 1803-B.

**Sec. 11. 23 MRSA §4210-E,** as enacted by PL 2009, c. 655, Pt. B, §2, is repealed.

**Sec. 12. 30-A MRSA §5721-A, sub-§4,** as amended by PL 2007, c. 662, §3, is further amended to read:

**4. Adjustment for new state funding.** If the State provides net new funding to a municipality for existing services funded in whole or in part by the property tax levy, other than required state mandate funds pursuant to section 5685 that do not displace current property tax expenditures, the municipality shall lower its property tax levy limit in that year in an amount equal to the net new funds. For purposes of this subsection, "net new funds" means the amount of funds received by the municipality from the State during the most recently completed calendar year, with respect to services funded in whole or in part by the property tax levy, less the product of the following: the amount of such funds received in the prior calendar year multiplied by one plus the growth limitation factor described in subsection 3. "Net new funds" refers to state-municipal revenue sharing and does not

include changes in state funding for general assistance under Title 22, section 4311 or in state funding under the ~~Urban-Rural Initiative~~ Local Road Assistance Program under Title 23, section 1803-B if those changes are the result of the operation of the formula for calculation of state funding under that section but does include changes in funding that are the result of a statutory change in the formula for calculation of state funding under that section. If the calculation required by this subsection reveals that the municipality received a net reduction in funding, the municipality is authorized to adjust its property tax levy limit in an amount equal to the net reduction of funds. For the purpose of determining if there was a net reduction in funding, the municipality may consider only those funds that are net new funds. For purposes of this subsection, "net reduction in funding" means the amount of funds received by the municipality from the State during the calendar year immediately preceding the most recently completed calendar year less the amount of such funds received in the most recently completed calendar year. If the calculation required by this subsection yields a positive value, that value may be added to the municipality's property tax levy limit. If a municipality receives net new funds in any fiscal year for which its property tax levy limit has not been adjusted as provided in this subsection, the municipality shall adjust its property tax levy limit in the following year in an amount equal to the net new funds.

**Sec. 13. 35-A MRSA §122, sub-§6-B** is enacted to read:

**6-B. Revenue from energy infrastructure corridors.** Notwithstanding subsection 6-A, 90% of the revenues generated from the use of statutory corridors designated under subsection 1-A, paragraphs A and B owned by the Department of Transportation within energy infrastructure corridors must be deposited into the Secondary Road Program Fund established in Title 23, section 1803-C and 10% of the revenues must be deposited into the energy infrastructure benefits fund established in Title 5, section 282, subsection 9.

**Sec. 14. Effective date.** This Act takes effect July 1, 2013.

Effective July 1, 2013.

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**CHAPTER 653**  
**H.P. 1371 - L.D. 1853**

**An Act To Improve  
Environmental Oversight and  
Streamline Permitting for  
Metallic Mineral Mining in  
Maine**

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

**Sec. 1. 12 MRSA §550-A**, as amended by PL 1985, c. 819, Pt. A, §17, is repealed.

**Sec. 2. 12 MRSA §685-B, sub-§1-A, ¶B-1** is enacted to read:

B-1. A permit is not required for a project for mining of metallic minerals that is reviewed under the Maine Metallic Mineral Mining Act. A person submitting a permit application to the Department of Environmental Protection under Title 38, chapter 3, subchapter 1, article 9 for a metallic mineral mining project located wholly or in part within the unorganized and deorganized areas of the State shall file a notice of the intent to develop and a map indicating the location of the proposed development with the commission prior to or concurrently with submission of a development application to the Department of Environmental Protection. The commission must certify to the department that the proposed development is an allowed use within the subdistrict or subdistricts for which it is proposed and that the proposed development meets any land use standards established by the commission and applicable to the project that are not considered in the department's review. This paragraph does not prohibit the commission from enforcing the land use standards certified to the Department of Environmental Protection under this paragraph.

**Sec. 3. 12 MRSA §685-B, sub-§4, ¶A**, as amended by PL 1999, c. 333, §16, is further amended to read:

A. Adequate technical and financial provision has been made for complying with the requirements of the State's air and water pollution control and other environmental laws, and those standards and regulations adopted with respect thereto, including without limitation the minimum lot size laws, sections 4807 to 4807-G, the site location of development laws, Title 38, sections 481 to 490 489-E, and the natural resource protection laws, Title 38, sections 480-A to 480-Z, and adequate provision has been made for solid waste and sewage disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies;

**Sec. 4. 36 MRSA §2861, sub-§6**, as enacted by PL 1991, c. 883, §4, is amended to read:

**6. Oversight.** The Treasurer of State, following the payment of excise tax revenues to municipalities pursuant to subsection 4, shall annually set aside 25% of the remaining revenues from mining operations in municipalities not under the jurisdiction of the Maine Land Use Regulation Commission to be deposited in the Mining Corrective Action Oversight Fund. Money

in this fund is available to municipalities to fund ~~corrective action~~ oversight of mining activity as defined by rule by the Department of Environmental Protection in relation to metallic mineral exploration.

**Sec. 5. 36 MRSA §2862, first ¶**, as amended by PL 1991, c. 883, §5, is further amended to read:

Excise tax revenues remaining after municipal reimbursement and payments into the Mining ~~Corrective Action Oversight~~ Fund under section 2861 must be used as follows.

**Sec. 6. 36 MRSA §2866**, as enacted by PL 1991, c. 883, §8, is amended to read:

**§2866. Mining Oversight Fund**

**1. Creation of fund.** The Mining ~~Corrective Action Oversight~~ Fund, referred to in this section as "the "fund," is established as a nonlapsing fund administered by the Mining Excise Tax Trust Fund Board of Trustees, referred to in this section as "the "board." The board shall oversee and authorize expenditures from the fund.

**2. Investment.** The Treasurer of State shall invest the money in the fund as authorized by Title 5, section 138.

~~**3. Scope of corrective action.** The fund may be used only for corrective action for mining operations located in municipalities.~~

**4. Uses of fund.** Money from the fund may be used only to fund ~~corrective action~~ oversight of mining activity as defined provided in the mining rules adopted by the Department of Environmental Protection ~~and the Maine Land Use Regulation Commission under the Maine Metallic Mineral Mining Act, and expenses for site oversight. Corrective action includes, but is not limited to, remedial action related to:~~ Expenses for site oversight include, but are not limited to, expenses of the department or the department's agents or contractors related to site oversight, including costs of personnel and administrative costs and expenses necessary to administer, review and monitor corrective action.

~~A. Contaminated ground water;~~

~~B. Disposition of mining wastes;~~

~~C. Reclamation defects on or surrounding the site; and~~

~~D. Pollution control at the site.~~

**5. Restrictions and liability.** ~~Money from the fund may be used only for corrective action necessary to address problems that occur at the site following termination of mining operations and closure of the mine. Corrective action necessary during the operation of a mine must be funded by the mining company. The existence of this fund does not relieve a mining company of any liability or responsibility arising from~~

a corrective action following termination of its mining operation in a municipality.

~~6. Disposition of fund.~~ When corrective action is necessary in accordance with this section, the board shall provide funds for remedial activities at the site on a pro rata basis to ensure that funds are available for any necessary corrective action at other sites. This determination is based on the amount of excise tax revenues generated at each site.

~~7. Depletion of fund.~~ Following termination of mining operations, the mining company and, in the case of a mining company that is a subsidiary of a corporation, the parent company remain liable for any corrective action determined necessary by the board. If the contributions of the mining company to the fund are insufficient to fund corrective action, the mining company or its successor, if the company has been sold, remains liable for the costs of corrective action. If the mining company ceases to exist, the parent company, if any, is liable for any necessary corrective action. Any funds expended for corrective action as provided in this section must be reimbursed in full by the mining company, its successor or its parent corporation.

**Sec. 7. 38 MRSA §349-A**, as enacted by PL 1989, c. 874, §1, is repealed.

**Sec. 8. 38 MRSA §351, first ¶**, as enacted by PL 1983, c. 574, §1, is amended to read:

The Maine Environmental Protection Fund, referred to in this subchapter as "the fund," is established as a nonlapsing fund to supplement licensing programs administered by the Department of Environmental Protection. All Except as otherwise provided in this section, all fees established under this subchapter shall must be credited to the fund, and administrative expenses directly related to licensing programs shall must be charged to the fund, except that in fiscal year 1984, \$41,250 shall be deposited in the General Fund.

**Sec. 9. 38 MRSA §351**, as amended by PL 1991, c. 9, Pt. E, §27, is further amended by adding after the first indented paragraph a new paragraph to read:

All fees related to metallic mineral mining applications and permits under section 352, subsection 4-A must be credited to the Metallic Mining Fund, Other Special Revenue Funds account, which is established as a subaccount of the Maine Environmental Protection Fund to provide for prompt and effective planning, oversight and implementation of metallic mineral mining operations.

**Sec. 10. 38 MRSA §352, sub-§3**, as amended by PL 2009, c. 642, Pt. A, §8, is further amended to read:

**3. Maximum fee.** The commissioner shall set the actual fees and shall publish a schedule of all fees

by November 1st of each year. If the commissioner determines that a particular application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on Table I, the commissioner may designate that application as subject to special fees. Such a designation must be made at, or prior to, the time the application is accepted as complete and may not be based solely on the likelihood of extensive public controversy. The maximum fee for processing an application may not exceed \$250,000, except that the maximum fee for processing an application under chapter 3, subchapter 1, article 9 is as provided for in subsection 4-A. All staff of the department, the Department of Inland Fisheries and Wildlife, the Department of Conservation, the Department of Agriculture, Food and Rural Resources and the Department of Marine Resources who have worked on the review of the application, including, but not limited to, preapplication consultations, shall submit quarterly reports to the commissioner detailing the time spent on the application and all expenses attributable to the application, including the costs of any appeals filed by the applicant and, after taking into consideration the interest of fairness and equity, any other appeals if the commissioner finds it in the public interest to do so. Any appeal filed by the applicant of an application fee must be to the agency of jurisdiction of the application. The costs associated with assistance to the board on an appeal before the board may be separately charged. The processing fee for that application must be the actual cost to the department, the Department of Inland Fisheries and Wildlife, the Department of Conservation, the Department of Agriculture, Food and Rural Resources and the Department of Marine Resources. The processing fee must be distributed to each department that incurs a cost to be deposited in the account in which the expenses were incurred in that department to reimburse the actual cost to that department. The applicant must be billed quarterly and all fees paid prior to receipt of the permit. At the time of the quarterly billing by the department, the commissioner shall review the ongoing work of the department to identify, prevent and mitigate undue delays or vague requirements of the application processing. Nothing in this section limits the commissioner's authority to enter into an agreement with an applicant for payment of costs in excess of the maximum fee established in this subsection.

**Sec. 11. 38 MRSA §352, sub-§4-A**, as enacted by PL 1989, c. 874, §2, is repealed and the following enacted in its place:

**4-A. Fees for metallic mineral mining.** Metallic mineral mining permit applications under chapter 3, subchapter 1, article 9 are subject to the following fees. Fees under this subsection must be deposited in the Metallic Mining Fund, Other Special Revenue Funds subaccount.

A. The initial processing fee is \$500,000.

B. Preapplication and processing fees are special fees subject to subsection 3. The maximum fee for processing an application must be discussed by the department and the applicant during preapplication meetings. If the applicant does not agree to the maximum fee as determined by the commissioner, the refund provisions of paragraph F apply.

C. The costs associated with the department's preparation for and attendance at any application proceeding held by the board, including the costs associated with assistance to the board, must be paid by the applicant.

D. The costs associated with the department's assistance to the board on an appeal by the applicant before the board must be paid by the applicant and may be separately charged to the applicant by the department. The costs associated with the department's assistance to the board on an appeal by a person other than the applicant before the board may not be charged to the applicant.

E. The annual license fee must be at least \$20,000 and may not exceed \$50,000 and must be set by the department prior to the issuance of the permit.

F. If at any time the application is withdrawn by the applicant, the department shall calculate the portion of the processing fee that was expended or committed by the department or the department's agents or contractors for processing the application prior to the withdrawal and the remainder of the processing fee not expended or committed must be refunded to the applicant.

**Sec. 12. 38 MRSA §353, sub-§1-A**, as enacted by PL 1989, c. 874, §3, is repealed.

**Sec. 13. 38 MRSA §353, sub-§2**, as amended by PL 1997, c. 794, Pt. B, §5, is further amended to read:

**2. Processing fee.** Except for annual air emission fees pursuant to section 353-A and annual waste discharge fees pursuant to section 353-B, a processing fee must be paid at the time of filing the application. Failure to pay the processing fee at the time of filing the application results in the application being returned to the applicant. One-half the processing fee assessed in section 352, subsection 5-A for licenses issued for a 10-year term must be paid at the time of filing the application. The remaining 1/2 of the processing fee for licenses issued for a 10-year term must be paid 5 years after issuance of the license. The commissioner may not refund the processing fee if the application is denied by the board or the commissioner. ~~¶~~ Except as provided in section 352, subsection 4-A, if the application is withdrawn by the applicant within 30 days of

~~the start of processing, the processing fee must be refunded, except in the case of nonferrous metal mining applications portion of the processing fee that was expended or committed by the department or the department's agents or contractors for the cost of processing the application prior to the withdrawal of the application must be calculated, and the remainder of the processing fee not expended or committed must be refunded. If an application for nonferrous metal mining is withdrawn by the applicant within 30 days of the date of filing, 1/2 of the application fee must be refunded.~~

**Sec. 14. 38 MRSA §420-D, sub-§5**, as amended by PL 2011, c. 206, §8, is further amended to read:

**5. Relationship to other laws.** A storm water permit pursuant to this section is not required for a project requiring review by the department pursuant to any of the following provisions but the project may be required to meet standards for management of storm water adopted pursuant to this section: article 6, site location of development; article 7, performance standards for excavations for borrow, clay, topsoil or silt; article 8-A, performance standards for quarries; article 9, the Maine Metallic Mineral Mining Act; sections 631 to 636, permits for hydropower projects; and section 1310-N, 1319-R or 1319-X, waste facility licenses. When a project requires a storm water permit and requires review pursuant to article 5-A, the department shall issue a joint order unless the permit required pursuant to article 5-A is a permit-by-rule or general permit, or separate orders are requested by the applicant and approved by the department.

A storm water permit pursuant to this section is not required for a project receiving review by a registered municipality pursuant to section 489-A if the storm water ordinances under which the project is reviewed are at least as stringent as the storm water standards adopted pursuant to section 484 or if the municipality meets the requirements of section 489-A, subsection 2-A, paragraph B.

**Sec. 15. 38 MRSA §480-D, sub-§3**, as amended by PL 2001, c. 618, §3, is further amended to read:

**3. Harm to habitats; fisheries.** The activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life.

In determining whether mining, as defined in section 490-MM, subsection 11, will comply with this subsection, the department shall review an analysis of alternatives submitted by the applicant. For purposes of this subsection, a practicable alternative to mining, as defined in section 490-MM, subsection 11, that is less

damaging to the environment is not considered to exist. The department may consider alternatives associated with the activity, including alternative design and operational measures, in its evaluation of whether the activity avoided and minimized impacts to the maximum extent practicable.

In determining whether there is unreasonable harm to significant wildlife habitat, the department may consider proposed mitigation if that mitigation does not diminish in the vicinity of the proposed activity the overall value of significant wildlife habitat and species utilization of the habitat and if there is no specific biological or physical feature unique to the habitat that would be adversely affected by the proposed activity. For purposes of this subsection, "mitigation" means any action taken or not taken to avoid, minimize, rectify, reduce, eliminate or compensate for any actual or potential adverse impact on the significant wildlife habitat, including the following:

- A. Avoiding an impact altogether by not taking a certain action or parts of an action;
- B. Minimizing an impact by limiting the magnitude, duration or location of an activity or by controlling the timing of an activity;
- C. Rectifying an impact by repairing, rehabilitating or restoring the affected environment;
- D. Reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; or
- E. Compensating for an impact by replacing the affected significant wildlife habitat.

**Sec. 16. 38 MRSA §482, sub-§2, ¶B,** as amended by PL 2005, c. 330, §18, is further amended to read:

- B. Is ~~a metallic mineral mining or advanced exploration activity as defined in this section or an oil or gas exploration or production activity that includes drilling or excavation under water;~~

**Sec. 17. 38 MRSA §482, sub-§2-B,** as amended by PL 1995, c. 700, §4, is repealed.

**Sec. 18. 38 MRSA §484, sub-§4-A,** as amended by PL 2009, c. 506, §1 and affected by §3, is further amended to read:

**4-A. Storm water management and erosion and sedimentation control.** The proposed development, ~~other than a metallic mineral mining or advanced exploration activity,~~ meets the standards for storm water management in section 420-D and the standard for erosion and sedimentation control in section 420-C. ~~A proposed metallic mineral mining or advanced exploration activity must meet storm water standards in department rules adopted to implement subsections 3 and 7.~~ If exempt under section 420-D, subsection 7, a proposed development must satisfy the

applicable storm water quantity standard and, if the development is located in the direct watershed of a lake included in the list adopted pursuant to section 420-D, subsection 3, any applicable storm water quality standards adopted pursuant to section 420-D. For redevelopment projects only, the standards for storm water management in section 420-D are met if the proposed development is located in a designated area served by a department-approved management system for storm water as described in section 420-D, subsection 2, as long as the owner or operator of the parcel upon which the proposed development will be located enters into or obtains and remains in compliance with all agreements, permits and approvals necessary for the proposed development to be served by such management system for storm water.

**Sec. 19. 38 MRSA §485-A, sub-§1-C,** as amended by PL 2009, c. 602, §2, is further amended to read:

**1-C. Long-term construction projects.** The department shall adopt rules identifying requirements for a long-term construction project that allow approval of development within a specified area and within specified parameters such as maximum area and groundwater usage, although the specific nature and extent of the development or timing of construction may not be known at the time a permit for the long-term construction project is issued. The location and parameters of the development must meet the standards of this article. ~~This subsection does not apply to metallic mineral mining or advanced exploration activities.~~

**Sec. 20. 38 MRSA §488, sub-§9,** as amended by PL 2009, c. 615, Pt. E, §19, is further amended to read:

**9. Development within unorganized areas.** A development located entirely within an area subject to the jurisdiction of the Maine Land Use Regulation Commission, other than ~~a metallic mineral mining or advanced exploration activity,~~ an oil terminal facility or an offshore wind power project with an aggregate generating capacity of 3 megawatts or more that is not a community-based offshore wind energy project as defined in Title 12, section 682, subsection 19, is exempt from the requirements of this article.

A. If a development is located in part within an organized area and in part within an area subject to the jurisdiction of the Maine Land Use Regulation Commission, that portion of the development within the organized area is subject to review under this article if that portion is a development pursuant to this article. That portion of the development within the jurisdiction of the commission is exempt from the requirements of this article except as provided in paragraph B.

B. If a development is located as described in paragraph A, the department may review those

aspects of a development within the jurisdiction of the Maine Land Use Regulation Commission if the commission determines that the development is an allowed use within the subdistrict or subdistricts for which it is proposed pursuant to Title 12, section 685-B. A permit from the Maine Land Use Regulation Commission is not required for those aspects of a development approved by the department under this paragraph.

Review by the department of subsequent modifications to a development approved by the department is required. For a development or part of a development within the jurisdiction of the Maine Land Use Regulation Commission, the director of the commission may request and obtain technical assistance and recommendations from the department. The commissioner shall respond to the requests in a timely manner. The recommendations of the department must be considered by the Maine Land Use Regulation Commission in acting upon a development application.

**Sec. 21. 38 MRSA §488, sub-§11**, as repealed and replaced by PL 1997, c. 502, §10 and affected by §18, is amended to read:

**11. Farm and fire ponds.** A pond that is used for irrigation of field crops, water storage for cranberry operations or fire protection determined to be necessary in that location by the municipal fire department is exempt from review under this article. This provision does not provide an exemption for ~~mining or advanced exploration activity~~ or excavation for borrow, clay, topsoil or silt.

**Sec. 22. 38 MRSA §490**, as amended by PL 1995, c. 700, §11, is repealed.

**Sec. 23. 38 MRSA c. 3, sub-c. 1, art. 9** is enacted to read:

## ARTICLE 9

### MAINE METALLIC MINERAL MINING ACT

#### §490-LL. Short title

This article may be known and cited as "the Maine Metallic Mineral Mining Act."

#### §490-MM. Definitions

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

**1. Advanced exploration.** "Advanced exploration" means any metallic mineral bulk sampling or exploratory activity that exceeds those activities that are exploration activities and are specified in rules adopted by the department. Samples taken as part of exploration are not considered bulk sampling.

**2. Affected area.** "Affected area" means an area outside of a mining area where the land surface, surface water, groundwater, air resources, soils or exist-

ing uses are potentially affected by mining operations as determined through an environmental impact assessment.

**3. Beneficiation.** "Beneficiation" means the treatment of ore to liberate or concentrate its valuable constituents. "Beneficiation" includes, but is not limited to, crushing, grinding, washing, dissolution, crystallization, filtration, sorting, sizing, drying, sintering, pelletizing, briquetting, calcining, roasting in preparation for leaching to produce a final or intermediate product that does not undergo further beneficiation or processing, gravity concentration, magnetic separation, electrostatic separation, flotation, ion exchange, solvent extraction, electrowinning, precipitation, amalgamation and dump, vat, tank and in situ leaching.

**4. Closure.** "Closure" means activities undertaken to manage a mining area and, if necessary, an affected area, pursuant to an environmental protection, reclamation and closure plan approved by the department. "Closure" includes, but is not limited to, actions taken to contain metallic mineral wastes on site and to ensure the integrity of waste management structures and the permanent securement of pits, shafts and underground workings.

**5. Contamination.** As applied to groundwater, "contamination" means nonattainment of water quality standards, the cause of which is attributable to a mining operation, as:

A. Specified in rules relating to primary drinking water standards adopted pursuant to Title 22, section 2611; or

B. Demonstrated by a statistically significant change in measured parameters that indicates deterioration of water quality determined through assessment monitoring.

As applied to surface water, "contamination" means a condition created by any direct or indirect discharge that causes or contributes to nonattainment of applicable water quality or licensing standards under section 414-A or 420. The nonattainment may be attributable to the mining operation either by itself or in combination with other discharges.

**6. Exploration.** "Exploration" or "exploration activity" means the following activities when conducted in accordance with rules adopted by the department for the purpose of determining the location, extent and composition of metallic mineral deposits: test boring, test drilling, hand sampling, the digging of test pits, trenching or outcrop stripping for the removal of overburden having a maximum surface opening of 300 square feet per test pit or trench or other test sampling methods determined by the department to cause minimal disturbance of soil and vegetative cover.

**7. Heap or percolation leaching.** "Heap or percolation leaching" means a process for the primary purpose of recovering metallic minerals in an outdoor environment from a stockpile of crushed or excavated ore by percolating water or a solution through the ore and collecting the leachate.

**8. Metallic mineral.** "Metallic mineral" means any ore or material to be excavated from the natural deposits on or in the earth for its metallic mineral content to be used for commercial or industrial purposes. "Metallic mineral" does not include thorium or uranium.

**9. Metallic mineral operator.** "Metallic mineral operator" means a permittee or other person who is engaged in, or who is preparing to engage in, mining operations for metallic minerals, whether individually or jointly or through agents, employees or contractors.

**10. Metallic product.** "Metallic product" means a commercially salable mineral or metal produced primarily for its metallic mineral content in its final marketable form or state.

**11. Mining.** "Mining," "mining operation" or "mining activity" means activities, facilities or processes necessary for the extraction or removal of metallic minerals or overburden or for the preparation, washing, cleaning or other treatment of metallic minerals and includes the bulk sampling, advanced exploration, extraction or beneficiation of metallic minerals as well as waste storage and other stockpiles and reclamation activities, but does not include exploration.

**12. Mining area.** "Mining area" means an area of land described in a permit application and approved by the department, including but not limited to land from which earth material is removed in connection with mining, the lands on which material from that mining is stored or deposited, the lands on which beneficiating or treatment facilities, including groundwater and surface water management treatment systems, are located or the lands on which water reservoirs used in a mining operation are located.

**13. Mining permit.** "Mining permit" means a permit issued under this article for conducting mining and reclamation operations.

**14. Permittee.** "Permittee" means a person who is issued a mining permit.

**15. Post-closure monitoring period.** "Post-closure monitoring period" means a period following closure during which a permittee is required to conduct monitoring of groundwater and surface water and other environmental parameters as specified in a mining permit.

**16. Reclamation.** "Reclamation" or "reclamation operation" means the rehabilitation of the mining area, affected area and any other area of land or water body affected by mining under an environmental protection,

reclamation and closure plan approved by the department. "Reclamation" includes, but is not limited to, stabilization of slopes, creation of safety benches, planting of forests, seeding of grasses and legumes for grazing purposes, planting of crops for harvest and enhancement of wildlife and aquatic resources.

**17. Tailings impoundment.** "Tailings impoundment" means land on which is deposited, by hydraulic or other means, material that is separated from the metallic product in the beneficiation or treatment of minerals, including any surrounding dikes constructed to contain the material.

**§490-NN. Administration and enforcement; rules; regulation by local units of government**

**1. Administration; jurisdiction; rules.** The department shall administer and enforce this article in all areas of the State, including the unorganized territory, in order to regulate mining.

A. The provisions of articles 6, 7 and 8-A, chapter 13 and section 420-D do not apply to projects reviewed under this article. Projects reviewed under this article do not require any other permits from the department except for permits required under section 490-OO; permits required under article 5-A; waste discharge licenses required under section 413 for discharges of pollutants to groundwater via an underground injection well or discharges of pollutants to surface waters of the State, including permits for construction and industrial discharge issued by the department pursuant to 40 Code of Federal Regulations, Section 122.26; licenses required under chapter 4; and other permits or licenses issued pursuant to any United States Environmental Protection Agency federally delegated program. This article does not prohibit the department from adopting rules to implement standards for mining that are necessary to protect human health and the environment.

B. In addition to other powers granted to it, the department shall adopt rules to carry out its duties under this article, including, but not limited to, standards for exploration, advanced exploration, construction, operation, closure, post-closure monitoring, reclamation and remediation. Except as otherwise provided, rules adopted under this article are major substantive rules for purposes of Title 5, chapter 375, subchapter 2-A and are subject to section 341-H.

**2. Maine Land Use Regulation Commission.** The department may not approve a permit under this article in an unorganized territory unless the Maine Land Use Regulation Commission certifies to the department that:

A. The proposed mining is an allowed use within the subdistrict or subdistricts in which it is to be located; and

B. The proposed mining meets any land use standard established by the Maine Land Use Regulation Commission and applicable to the project that is not considered in the department's review.

**3. Municipal authority.** This article does not prevent a municipality from regulating or controlling mining or reclamation activities that are subject to this article, including, but not limited to, construction, operation, closure, post-closure monitoring, reclamation and remediation activities.

**§490-OO. Mining permit; application procedure**

**1. Permit required.** A person may not engage in mining without a permit issued by the department under this article.

**2. Application procedure.** An application for a mining permit must be submitted to the department in a format to be developed by the department. The application must include the following:

A. The fees established in section 352. All costs incurred by the department in processing an application must be paid for by the applicant;

B. An environmental impact assessment for the proposed mining operation that describes the natural and artificial features, including, but not limited to, groundwater and surface water quality, flora, fauna, hydrology, geology and geochemistry and baseline conditions for those features in the proposed mining area and affected area that may be affected by the mining operation and the potential impacts on those features from the proposed mining operation. The environmental impact assessment must define the mining area and the affected area and address practicable alternatives to address impacts to the mining area and potential impacts to the affected area. The department shall review the environmental impact assessment and may approve, reject or require modifications to the assessment;

C. An environmental protection, reclamation and closure plan for the proposed mining operation, including beneficiation operations, that will reasonably avoid, minimize and mitigate the actual and potential adverse impacts on natural resources, the environment and public health and safety within the mining area and the affected area. The plan must address unique issues associated with mining and must include, but not be limited to, the following:

(1) A description of materials, methods and techniques that will be used;

(2) Information that demonstrates that the methods, materials and techniques proposed to be used are capable of accomplishing their stated objectives in protecting the environment and public health. The required infor-

mation may consist of results of actual testing, modeling, documentation by credible independent testing and certification organizations or documented applications in similar uses and settings;

(3) Plans and schedules for interim and final reclamation of the mining area and the affected area following cessation of mining operations and plans and schedules for measures taken during suspension of operations, including contemporaneous reclamation, to the extent practicable;

(4) A description of the geochemistry of the ore, waste rock, overburden, peripheral rock, spent leach material and tailings, including characterization of leachability, reactivity and acid-forming characteristics;

(5) A mining operations closure plan;

(6) Provisions for the prevention, control and monitoring of acid-forming waste products and other waste products from the mining process in accordance with standards in subsection 4, paragraphs D and E;

(7) Storm water and surface water management provisions;

(8) A water quality monitoring plan;

(9) A description of the wastewater discharge management plan;

(10) A description of any tailings impoundment and the methods, materials and techniques to be used;

(11) A plan for the storage of hazardous materials; and

(12) An estimate of costs for reclamation, closure and environmental protection.

D. A contingency plan that includes an assessment of the risk to the environment and public health and safety associated with potential significant incidents or failures related to the mining operation and describes the metallic mineral operator's notification and response plans. When the application is accepted as complete for processing by the department, the applicant shall provide a copy of the contingency plan to each municipality in which the mining area and affected area may be located or, in the unorganized territory, to the county commissioners for each county in which the mining area or affected area may be located. The department may require amendments to the contingency plan;

E. Financial assurance as described in section 490-RR; and

F. A list of other state and federal permits or approvals anticipated by the applicant to be required.

**3. Permit issuance if violation exists.** A mining permit may not be issued or transferred to a person if the department has determined that person to be in violation of this article, rules adopted under this article, a mining permit, an order of the department issued pursuant to this article or any other state law, rule, permit or order that the department determines through rulemaking is relevant to the issuance or transfer of a mining permit unless the person has corrected the violation or the person has agreed in a judicially enforceable document to correct the violation pursuant to a compliance schedule approved by the department.

**4. Criteria for approval.** Except as provided for in subsection 3, the department shall approve a mining permit whenever it finds the following.

A. The applicant has the financial capacity and technical ability to develop the project in a manner consistent with applicable state environmental standards and with the provisions of this article.

B. The applicant has made adequate provision for fitting the mining operation harmoniously into the existing natural environment and the development will not unreasonably adversely affect existing uses, scenic character, air quality, water quality or other natural resources.

(1) In making a determination under this paragraph regarding a mining operation's effects on natural resources regulated by the Natural Resources Protection Act, the department shall apply the same standards applied under the Natural Resources Protection Act.

(2) The applicant must demonstrate that there is reasonable assurance that public and private water supplies will not be affected by the mining operations.

(3) The applicant must demonstrate that rules to protect human health and the environment adopted by the department pursuant to this article will be met.

C. The mining operation will be located on soil types that are suitable to the nature of the mining operation.

D. There is reasonable assurance that discharges of pollutants from the mining operation will not violate applicable water quality standards. Notwithstanding sections 465-C and 470, discharges to groundwater from activities permitted under this article may occur within a mining area, but such discharges may not result in contamination of groundwater beyond each mining area. In determining compliance with this standard, the de-

partment shall require groundwater monitoring consistent with the standards established pursuant to section 490-QQ, subsection 3.

E. The mining operation will not cause a direct or indirect discharge of pollutants into surface waters or discharge groundwater containing pollutants into surface waters that results in a condition that is in nonattainment of or noncompliance with the standards in article 4-A or section 414-A or 420.

F. Withdrawals of groundwater and surface water related to the mining operation will comply with article 4-B.

G. The applicant has made adequate provision of utilities, including water supplies, wastewater facilities and solid waste disposal, required for the mining operation, and the mining operation will not have an unreasonable adverse effect on the existing or proposed utilities in a municipality or area served by those services.

H. The mining operation will not unreasonably cause or increase the flooding of the area that is altered by the mining operation or adjacent properties or create an unreasonable flood hazard to any structure. Mining operations may be placed in flood plains or flood hazard areas as long as they are designed, constructed, operated and reclaimed in a manner that complies with the approval criteria in this subsection and the Natural Resources Protection Act.

I. The applicant has made adequate provision for protection of public safety.

J. The mining operation will not use heap or percolation leaching.

**5. Permit coordination.** If a person submits an application for a mining permit under this article and an application to the department for any other permit required pursuant to section 490-NN, subsection 1, the department shall process the applications in a coordinated fashion and issue a joint decision. The coordinated permit process must include consolidation of public hearings.

**6. Public and local participation.** In addition to provisions for public participation pursuant to Title 5, chapter 375 and department rules relating to public participation in the processing of applications, the following provisions apply to an application for a mining permit.

A. At least 60 days prior to submitting an application to the department, the applicant shall notify by certified mail the municipal officers of each municipality in which the mining area or affected area may be located or, in the unorganized territory, the county commissioners for each county in which the mining area or affected area may be located. The applicant at the same time shall pro-

vide a copy of the notice to the department and the Director of the Bureau of Geology and Natural Areas within the Department of Conservation.

B. At the time an application is submitted to the department, the applicant shall provide written notice to the municipal officers of each municipality in which the mining area and affected area may be located or, in the unorganized territory, to the county commissioners for each county in which the mining area or affected area may be located and shall publish notice of the application in a newspaper of general circulation in the area.

C. The department shall hold an adjudicatory public hearing within the municipality in which the mining operation may be located or, in the unorganized territory, in a convenient location in the vicinity of the proposed mining operation. Administrative expenses of a hearing held pursuant to this paragraph must be paid for by the applicant.

D. The municipal officers, or their designees, from each municipality in which the mining area or affected area may be located or, in the unorganized territory, the county commissioners, or their designees, for each county in which the mining area or affected area may be located have intervenor status if they request it within 60 days after notification under paragraph B. The intervenor status granted under this paragraph applies in any proceeding for a permit under this article. Immediately upon the commissioner's receipt of a request for intervenor status under this paragraph, the intervenors have all rights and responsibilities commensurate with this status.

E. The commissioner shall reimburse or make assistance grants for the direct expenses of intervention of any party granted intervenor status under paragraph D, not to exceed \$50,000. The department shall adopt rules governing payment by an applicant to the department of fees necessary for the department to award intervenor assistance grants and governing the award and management of intervenor assistance grants and reimbursement of expenses to ensure that the funds are used in support of direct, substantive participation in the proceedings before the department. Allowable expenses include, without limitation, hydrogeological studies, traffic analyses, the retention of expert witnesses and attorneys and other related items. Expenses not used in support of direct, substantive participation in the proceedings before the department, including attorney's fees related to court appeals, are not eligible for reimbursement under this subsection. Expenses otherwise eligible under this subsection that are incurred by the municipality or county commissioners after notification pursuant to paragraph B are eligible for reimbursement under this paragraph only if a com-

pleted application is accepted by the department. The department shall also establish rules governing the process by which an intervenor under paragraph D may gain entry to the proposed mining site for purposes of reasonable inspection and site investigations under the auspices of the department. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**§490-PP. Mining permit; duration; termination; revocation; transfer; amendment**

**1. Duration of permit.** A mining permit issued by the department remains in effect until terminated or revoked by the department. The duration of other permits issued for the mining operation must be provided for in those permits. The department shall conduct annual reviews of the mining operations and assess compliance with the permit terms.

**2. Termination of permit.** After public notice, the department may terminate or request surrender of a mining permit if:

A. The permittee has not commenced construction of mining facilities or conducted mining activities covered by the mining permit within 4 years after the effective date of the mining permit; or

B. The permittee has satisfied the requirements of the environmental protection, reclamation and closure plan and completed final reclamation of the mining area and, if necessary, the affected area and requests the termination of the mining permit and the department determines all of the following:

(1) The air, water or other natural resources are not polluted or impaired from the mining operation;

(2) The permittee has otherwise fulfilled all conditions determined to be necessary by the department to protect the public health, safety and welfare and the environment; and

(3) The requirements for the post-closure monitoring period have been satisfied.

**3. Revocation of permit.** The department may revoke a mining permit after public notice pursuant to section 490-TT.

**4. Transfer of permit.** After public notice and unless otherwise provided in this article, a mining permit may be transferred with prior written approval of the department in accordance with the provisions of this subsection.

A. The person acquiring the mining permit shall submit to the department on forms provided by the department a request for transfer of the mining

permit and shall provide the financial assurance required under section 490-RR.

B. A person acquiring a mining permit must accept the conditions of the existing mining permit and adhere to the requirements set forth in this article.

C. If a permittee is determined by the department to be in violation of this article or the rules adopted under this article at the mining site that is the subject of the transfer, the mining permit may not be transferred until the permittee has completed the necessary corrective actions or the person acquiring the mining permit has entered into a written consent agreement to correct all of the violations.

D. A transferee shall demonstrate to the department's satisfaction the technical and financial capacity and intent to:

(1) Comply with all terms and conditions of the mining permit; and

(2) Satisfy all applicable statutory and regulatory criteria, including, but not limited to, providing adequate evidence of the financial assurance required by section 490-RR.

5. Amendment of permit. After public notice, a mining permit may be amended in accordance with this subsection.

A. A permittee may submit to the department a request to amend a mining permit to address anticipated changes in the mining operation, including, if applicable, amendments to the environmental impact assessment and to the environmental protection, reclamation and closure plan.

B. The department may require a mining permit to be amended if the department determines that the terms and conditions of the mining permit are not providing reasonable protection of the environment, natural resources or public health and safety.

#### **§490-QQ. Performance, operation and reclamation standards**

1. Performance standards. Standards adopted by the department through rulemaking must be performance-based to the extent feasible, and the department may require that the applicant implement control devices or measures necessary to achieve the performance standards. If the rules include standards that are not performance-based, the rules may allow a permittee to propose an alternative means of compliance that achieves equivalent environmental performance. The department is not required to approve the proposed alternative means of compliance. If the applicant proposes a control device or measure, it must demonstrate that there is reasonable assurance that the

device or measure will achieve the performance standard.

2. Suspension of mining operations. If mining operations are suspended for a continuous period exceeding 90 days, the permittee shall provide notice to the department and take actions, consistent with its environmental protection, reclamation and closure plan, to maintain, monitor and secure the mining area and shall conduct any interim sloping or stabilizing of surfaces necessary to protect the environment, natural resources and public health and safety in accordance with the mining permit. If mining operations are suspended for a continuous period exceeding 365 days, the permittee is considered to have ceased mining operations and all requirements applicable to closure take effect unless the department agrees in writing to delay the implementation of the closure plan based on a written submission by the permittee that demonstrates that the mining operations are expected to recommence within a reasonable period of time as determined by the department. The department may require partial closure of mining operations.

3. Water quality monitoring. Through rulemaking the department shall establish standards for monitoring groundwater as close as practicable to any mining area that may pose a threat to groundwater. A permittee shall conduct groundwater and surface water monitoring in accordance with the provisions of a mining permit during mining operations, during suspension of mining operations, during closure and during the post-closure monitoring period. The post-closure monitoring period must be at least 30 years following cessation of mining, subject to the following conditions.

A. The permittee shall provide to the department a written request to terminate post-closure monitoring not less than 18 months before the proposed termination date and shall provide the department with technical data and information demonstrating the basis for the termination of the post-closure monitoring.

B. The department may shorten the post-closure monitoring period at any time upon determining that there is no significant potential for water contamination resulting from the mining operation.

C. The department shall extend the post-closure monitoring period in increments of up to 20 years unless the department determines, approximately one year before the end of a post-closure monitoring period or post-closure incremental monitoring period, that there is no significant potential for surface water or groundwater contamination resulting from the mining operation.

4. Reclamation. The following reclamation requirements apply.

A. Except as provided in paragraph B, a permittee shall commence and complete final reclamation of a mining area and, if necessary, any affected area consistent with mining permit conditions and the environmental protection, reclamation and closure plan approved by the department.

B. Upon written request of a permittee, the department may approve an extension of time to begin or complete final reclamation.

C. Both the mining area and the affected area must be reclaimed with the goal that the affected area be returned to the ecological conditions that approximate pre-mining conditions to the extent feasible and practicable and considering any changes caused by non-mining activities or other natural events.

D. Following closure and reclamation, the landowner or lessee of a mining area in an unorganized territory shall petition the Maine Land Use Regulation Commission for rezoning to an appropriate subdistrict designation.

**5. Inspection and maintenance.** A permittee shall fully comply with all inspection, maintenance and monitoring requirements contained in a mining permit. After closure, mining areas and affected areas must be inspected at least twice per year. All waste piles and impoundments or any other pile or storage facility must be inspected by a licensed civil engineer with expertise in structural stability of waste piles and impoundments. The engineer shall either certify that the mining area and affected area are in good condition and not susceptible to failure due to significant weather, seismic or other events or identify the corrective measures that must be undertaken by the permittee. The inspections must document that all permit requirements, including storm water control, sediment and erosion control, dust migration, access controls, land use restrictions, waste pile or impoundment stabilization measures and treatment systems are fully compliant with the mining permit conditions and that there are no known conditions that could present an unreasonable threat to public health and safety or the environment. A permittee shall notify the department of any recommended corrective measures as soon as practicable after the inspection. A permittee shall submit an inspection report to the department within 21 days after the inspection.

#### **§490-RR. Financial assurance**

**1. Duration of financial assurance.** A permittee shall maintain financial assurance during mining operations until the department determines that all reclamation has been completed and during the post-closure monitoring period except that financial assurance must be reduced or released immediately upon termination of a mining permit under section 490-PP, subsection 2, paragraph A. The department may re-

quire financial assurance to remain in effect for as long as the mining operation and any associated waste material could create an unreasonable threat to public health and safety or the environment.

**2. Coverage of financial assurance.** The financial assurance required under subsection 1 applies to all mining and reclamation operations that are subject to a mining permit and must be sufficient to cover the cost for the department to administer, and hire a 3rd party to implement, activities necessary for the investigation, monitoring, closure, treatment, remediation, reclamation, operation and maintenance under the environmental protection, reclamation and closure plan as well as other necessary environmental protection measures, including remediation of any contamination of the air, surface water or groundwater.

**3. Form of financial assurance.** The financial assurance may consist of a surety bond, escrow, cash, certificate of deposit, trust, irrevocable letter of credit issued by a financial institution acceptable to the department, or other equivalent security, or combination thereof, as long as the department approves the financial assurance as proposed by the applicant. When determining the appropriate security to require, the department shall take into consideration the type and location of the mining operation and the type of security that is adequate to protect the State's financial interest. The financial assurance must be in a form that cannot be cancelled, withdrawn, revoked or otherwise reduced without the express written consent of the commissioner after a finding that the reduced amount is appropriate given the conditions related to the mining operation, including, but not limited to, the potential cost of long-term maintenance and monitoring, closure and any necessary response to episodic maintenance.

**4. Updates to financial assurance.** A permittee shall provide to the department an annual statement of financial responsibility, and the department may require that the financial assurance be adjusted to ensure that the financial assurance is sufficient for the purposes of subsection 2.

**5. Failure to provide financial assurance.** Failure to provide financial assurance under this section constitutes grounds for the department to order immediate suspension of mining activities pursuant to section 490-TT, including, but not limited to, the removal of metallic product from the mining area.

#### **§490-SS. Mining and reclamation report**

**1. Filing requirement.** A permittee shall file with the department a mining and reclamation report on or before March 15th of each year, during the period the mine is operating, during suspension of mining operations and during the post-closure monitoring period. The mining and reclamation report must contain the following:

A. A description of the status of mining and reclamation operations;

B. An update of the contingency plan. The permittee shall provide a copy of the update to the municipality or county commissioners, as applicable;

C. A report of monitoring results for the preceding calendar year;

D. A report of the total tons of material mined from the mining area and the amount of metallic product by weight produced from the mine for the preceding calendar year; and

E. A list of the notifications required under subsection 2 for the preceding calendar year.

**2. Notification requirement.** A permittee shall promptly notify the department and each municipality in which the mining area and the affected area are located, or, in the unorganized territory, the county commissioners for each county in which the mining area and the affected area are located, of any incident, act of nature or exceedance of a permit standard or condition related to the mining operation that has created, or may create, a threat to the environment, natural resources or public health and safety.

**3. Records.** Records must be retained as follows.

A. Records upon which mining and reclamation reports are based must be preserved by the permittee for 6 years. The permittee shall make the records available to the department upon request.

B. Records upon which incident reports under subsection 2 are based must be preserved by the permittee for 6 years or until the end of the post-closure monitoring period, whichever is later.

#### **§490-TT. Violations**

**1. Permittee required to correct violations.** If the department determines that a permittee has violated this chapter, a rule adopted under this article, an order of the department or a mining permit issued under this article, the department shall require the permittee to correct the violation and the department may pursue enforcement action pursuant to sections 347-A, 348 and 349.

**2. Imminent endangerment.** If the department determines that a violation under subsection 1 is causing or resulting in an imminent and substantial endangerment to the public health or safety, environment or natural resources, the department shall take action necessary to abate or eliminate the endangerment. Such action may include one or more of the following:

A. Revoking the mining permit as authorized by section 342, subsection 11-B;

B. Issuing an order to the permittee requiring immediate suspension of mining activities, includ-

ing, but not limited to, the removal of metallic product from the site;

C. Issuing an order to the permittee to undertake such other response actions as may be necessary to abate or eliminate the endangerment; and

D. Issuance of an emergency order as authorized by section 347-A, subsection 3.

**3. Effect of revocation or suspension.** The revocation of a mining permit or suspension of mining activities under subsection 2 does not relieve a permittee of the responsibility to complete closure, reclamation, operation and maintenance and monitoring, to maintain financial assurance required under section 490-RR and to undertake all appropriate measures to protect the environment, natural resources and public health and safety.

**4. Compliance with Maine Administrative Procedure Act.** The department shall comply with the Maine Administrative Procedure Act in its actions under this section.

**Sec. 24. 38 MRSA §633, sub-§2,** as amended by PL 1989, c. 878, Pt. G, §8, is further amended to read:

**2. Exceptions.** This subarticle shall does not apply to activities for which, prior to the effective date of this Act, a permit or permits have been issued pursuant to any of the following laws: Land use regulation laws, Title 12, sections 681 to 689; stream alteration laws, former sections 425 to 430; great ponds laws, former sections 391 to 394; alteration of coastal wetlands laws, former sections 471 to 478; site location of development laws, sections 481 to 490 489-E; and small hydroelectric generating facilities laws, this subarticle.

**Sec. 25. 38 MRSA §840, sub-§1, ¶D,** as amended by PL 1995, c. 630, §2, is further amended to read:

D. Operating with a permit setting water levels issued under the protection of natural resources laws, sections 480-A to 480-S; the site location of development laws, sections 481 to 490 489-E; the small hydroelectric generating facilities laws, sections 631 to 636; the land use regulation laws, Title 12, sections 681 to 689; or any other statute regulating the construction or operation of dams;

**Sec. 26. 38 MRSA §1319-E, sub-§1, ¶E,** as amended by PL 1993, c. 355, §54, is further amended to read:

E. Costs incurred in the inspection or supervision of hazardous waste, waste oil and biomedical waste activities and handlers; and

**Sec. 27. 38 MRSA §1319-E, sub-§1, ¶F,** as amended by PL 1993, c. 355, §54, is repealed.

**Sec. 28. Mining Oversight Fund; legislative intent.** It is the Legislature's intent that the Mining Oversight Fund created in the Maine Revised Statutes, Title 36, section 2866 be used only for its intended purpose to fund oversight of metallic mineral mining operations by the Department of Environmental Protection and the Metallic Mineral Fund created in the Maine Revised Statutes, Title 38, section 351 be used only for its intended purpose to provide for prompt and effective planning, oversight and implementation of metallic mineral mining operations and these funds should not be appropriated or allocated to any other purpose.

**Sec. 29. Maine Land Use Regulation Commission rulemaking; issue screening.**

**1. Rulemaking; rezoning process.** By January 15, 2013, the Maine Land Use Regulation Commission shall amend its rules relating to procedures and requirements for changes to land use subdistrict boundaries for metallic mineral mining activities to remove any provisions related to the permitting of metallic mineral mining activities regulated under the Maine Metallic Mineral Mining Act established in the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, article 9. The amended rules may only relate to the procedures and requirements necessary to review a rezoning application. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Prior to adoption of rules pursuant to this subsection, when reviewing an application for changes to a land use subdistrict boundary, the commission may only apply procedures and requirements necessary to review the rezoning and may not apply procedures and requirements related to environmental permitting regulated by the Department of Environmental Protection under the Maine Metallic Mineral Mining Act.

**2. Issue screening.** Within existing resources, or as resources become available through donations, the Maine Land Use Regulation Commission shall collect information regarding issues likely to arise in the rezoning of certain areas for metallic mineral mining for the purpose of making the rezoning process more efficient and complete.

**3. Rulemaking; commission certification of mining permit applications.** By January 10, 2014, the Maine Land Use Regulation Commission shall provisionally adopt and submit to the Legislature for review rules related to commission certification of metallic mineral mining permit applications as described in the Maine Metallic Mineral Mining Act established pursuant to the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, article 9. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 30. Department of Environmental Protection major substantive rulemaking.**

**1. Rulemaking.** By January 10, 2014, the Department of Environmental Protection shall provisionally adopt and submit to the Legislature for review rules related to the Maine Metallic Mineral Mining Act established pursuant to the Maine Revised Statutes, Title 38, chapter 3, subchapter 1, article 9. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**2. Standards.** The rules adopted pursuant to subsection 1 must include standards determined by the department to be necessary to protect the public health and safety and the environment. Standards adopted by the department may include, but are not limited to, standards regarding effects on groundwater quantity, control of noise, preservation of historic sites, preservation of unusual natural areas, effects on scenic character and protection of wildlife and fisheries.

**3. Maine Land Use Regulation Commission certification.** The rules adopted pursuant to subsection 1 relating to the permitting process for a mining permit must provide for Maine Land Use Regulation Commission certification pursuant to the Maine Revised Statutes, Title 38, section 490-NN, subsection 2 in the initial stages of the permitting process.

**Sec. 31. Existing rules; exploration and advanced exploration; rulemaking.**

**1. Existing rules.** Except as otherwise provided in this section, rules regulating metallic mineral mining adopted by the Department of Environmental Protection and the Maine Land Use Regulation Commission prior to the effective date of this section remain in effect until the Legislature approves major substantive rules provisionally adopted by the Department of Environmental Protection pursuant to this Act.

**2. Exploration and advanced exploration.** The Department of Environmental Protection and the Maine Land Use Regulation Commission shall jointly amend their rules related to exploration and advanced exploration activities to clarify the permitting requirements for exploration and advanced exploration. Rules adopted pursuant to this subsection remain in effect until the Legislature approves major substantive rules provisionally adopted by the Department of Environmental Protection pursuant to this Act. Rules adopted pursuant to this subsection are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

**Sec. 32. Appropriations and allocations.** The Metallic Mining Fund, Other Special Revenue Funds account is established as a nonlapsing fund under the jurisdiction and control of the Department of Environmental Protection. The Metallic Mining Fund is established to provide for the capacity for prompt

and effective planning, oversight and implementation of metallic mining operations. Notwithstanding any other provision of law, the State Controller shall transfer \$250,000 from the Uncontrolled Sites Fund under the Maine Revised Statutes, Title 38, section 1364, subsection 6 and \$250,000 from the Ground Water Oil Clean-up Fund under Title 38, section 569-A to the Metallic Mining Fund, Other Special Revenue Funds account within the Department of Environmental Protection on or before September 30, 2013.

**Sec. 33. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 12, Title 36 and Title 38 take effect June 1, 2014.

See title page for effective date, unless otherwise indicated.

## CHAPTER 654

### S.P. 684 - L.D. 1912

#### An Act To Encourage Responsible Teen Driving

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

**Sec. 1. 29-A MRSA §1256, sub-§4**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B §5, is repealed.

**Sec. 2. 29-A MRSA §1304, sub-§1, ¶D**, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

D. The permit is valid for a period of ~~18 months~~ 2 years.

**Sec. 3. 29-A MRSA §1311, sub-§2**, as amended by PL 2011, c. 556, §9 is further amended to read:

**2. Period of restrictions.** ~~Subject to~~ Except as provided in section 2116 and subject to extension pursuant to subsection 3, the license restrictions in subsection 1 are in effect for a period of ~~180~~ 270 days from license issuance. The period of license restrictions may extend beyond the person's 18th birthday.

**Sec. 4. 29-A MRSA §1311, sub-§3**, as enacted by PL 2003, c. 286, §4, is amended to read:

**3. Extension of restrictions.** A person who is adjudicated for violating this section must have the license restrictions in subsection 1 extended for an additional period of ~~180~~ 270 days. The additional period of license restrictions may extend beyond the person's 18th birthday. Any violation of the license restrictions during the period of this extension must result in a further extension of the license restrictions pursuant to this section.

**Sec. 5. 29-A MRSA §1311, sub-§4**, as enacted by PL 2003, c. 286, §4, is amended to read:

**4. Penalty.** A person who violates this section commits a traffic infraction for which a fine of not less than \$250 and not more than \$500 may be adjudged.

**Sec. 6. 29-A MRSA §1311, sub-§5** is enacted to read:

**5. Suspension of license.** The Secretary of State shall suspend without right to a hearing the license of a person adjudicated for violating this section:

A. For 60 days on the first offense;

B. For 180 days on the 2nd offense; and

C. For one year on the 3rd or subsequent offense.

**Sec. 7. 29-A MRSA §2119, sub-§3**, as enacted by PL 2011, c. 207, §1, is amended to read:

**3. Penalty.** A person who violates this section commits a traffic infraction for which a fine of not less than ~~\$400~~ \$250 and not more than \$500 may be adjudged.

**Sec. 8. 29-A MRSA §2251, sub-§7-A**, as enacted by PL 2011, c. 390, §2 and amended by c. 420, Pt. K, §1 and affected by §2, is further amended to read:

**7-A. Accident report database; public dissemination of accident report data.** Data contained in an accident report database maintained, administered or contributed to by the Department of Public Safety, Bureau of State Police must be treated as follows.

A. For purposes of this subsection, the following terms have the following meanings.

(1) "Data" means information existing in an electronic medium and contained in an accident report database.

(2) "Nonpersonally identifying accident report data" means any data in an accident report that are not personally identifying accident report data.

(3) "Personally identifying accident report data" means:

(a) An individual's name, residential and post office box mailing address, social security number, date of birth and driver's license number;

(b) A vehicle registration plate number;

(c) An insurance policy number;

(d) Information contained in any free text data field of an accident report; and

(e) Any other information contained in a data field of an accident report that may be used to identify a person.

B. ~~The~~ Except as provided in paragraph B-1, the Department of Public Safety, Bureau of State Police may not publicly disseminate personally identifying accident report data that are contained in an accident report database maintained, administered or contributed to by the Bureau of State Police. Such data are not public records for the purposes of Title 1, chapter 13.

B-1. The Department of Public Safety, Bureau of State Police may disseminate a vehicle registration plate number contained in an accident report database maintained, administered or contributed to by the Bureau of State Police to a person only if that person provides the Bureau of State Police an affidavit stating that the person will not:

- (1) Use a vehicle registration plate number to identify or contact a person; or
- (2) Disseminate a vehicle registration plate number to another person.

C. The Department of Public Safety, Bureau of State Police may publicly disseminate nonpersonally identifying accident report data that are contained in an accident report database maintained, administered or contributed to by the Bureau of State Police. The cost of furnishing a copy of such data is not subject to the limitations of Title 1, section 408.

**Sec. 9. 29-A MRSA §2251, sub-§8,** as amended by PL 2001, c. 360, §15, is further amended to read:

**8. Violation.** A person commits a Class E crime if that person:

- A. Is required to make an oral or written report and knowingly fails to do so within the time required;
- B. Is an operator involved in a reportable accident and knowingly fails to give a correct name and address when requested by an officer at the scene; ~~or~~
- C. Is the operator involved in a reportable accident or the owner of a vehicle involved in a reportable accident and knowingly fails to produce the vehicle or, if the vehicle is operational, return it to the scene when requested by the investigating officer; ~~or~~
- D. Obtains a vehicle registration plate number pursuant to subsection 7-A, paragraph B-1 and knowingly uses that vehicle registration plate number to identify or contact a person or knowingly disseminates that vehicle registration plate number to another person.

**Sec. 10. 29-A MRSA §2472, sub-§2,** as amended by PL 2007, c. 383, §30, is further amended to read:

**2. Suspension terms for moving violations.** If a person who has not yet attained the age of 21 years is convicted or adjudicated of a moving motor vehicle violation that occurred within 2 years from the date of issue of a juvenile provisional license, the Secretary of State shall suspend the license ~~without right to hearing:~~

- A. For 30 days on the 1st offense;
- B. For ~~60~~ 180 days on the 2nd offense; and
- C. For ~~90 days~~ one year on the 3rd or subsequent offense.

If requested, the Secretary of State shall provide an opportunity for hearing on the suspension as soon as practicable. After hearing, the Secretary of State, for good cause shown, may continue, modify or rescind the suspension. An individual who has not yet attained the age of 18 years does not have a right to a hearing.

**Sec. 11. 29-A MRSA §2472, sub-§2-A** is enacted to read:

**2-A. Driver improvement program.** A person whose license is suspended pursuant to subsection 2 shall complete a minimum of 4 hours of a driver improvement program approved by the Secretary of State before the suspension may be terminated.

**Sec. 12. 29-A MRSA §2472, sub-§2-B** is enacted to read:

**2-B. Reexamination.** The holder of a juvenile provisional license convicted of an offense listed in section 2551-A, subsection 1, paragraph A, as limited by section 2551-A, subsection 3, must successfully complete an examination pursuant to section 1301, subsection 4 as prescribed by the Secretary of State before the suspension may be terminated.

**Sec. 13. 29-A MRSA §2472, sub-§7** is enacted to read:

**7. Reinstatement fee for suspensions for major offenses.** Before a suspension issued to the holder of a license issued pursuant to this section resulting from a conviction or adjudication listed in section 2551-A, subsection 1, paragraph A, as limited by section 2551-A, subsection 3, is terminated and a license reinstated, a fee of \$200 must be paid to the Secretary of State and the holder must complete any community service imposed by a court, up to 60 hours.

**Sec. 14. 29-A MRSA §2486, sub-§1,** as amended by PL 2009, c. 213, Pt. YYYY, §2, is further amended to read:

1. Reinstatement fee for suspensions other than for OUI or failure to submit to a test. Before Except as provided in section 2472, subsection 7, before a suspension for any reason other than OUI or failure to submit to a test is terminated and a license or certificate reinstated, a fee of \$50, in addition to the regular license fee, must be paid to the Secretary of State.

Sec. 15. 29-A MRSA §2486, sub-§1-A, as enacted by PL 2007, c. 531, §5 and affected by §10, is further amended to read:

1-A. Reinstatement fee for suspensions for OUI or failure to submit to a test. Before Except as provided in section 2472, subsection 7, before a suspension for OUI or failure to submit to a test is terminated and a license or certificate reinstated, a fee of \$50, in addition to the regular license fee, must be paid to the Secretary of State.

Sec. 16. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 29-A, section 2472, subsection 2-A takes effect January 1, 2013.

See title page for effective date, unless otherwise indicated.

CHAPTER 655

H.P. 1405 - L.D. 1903

An Act To Make Additional Supplemental Appropriations and Allocations and To Change Certain Provisions of the Law for the Fiscal Years Ending June 30, 2012 and June 30, 2013

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

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable 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:

PART A

Sec. A-1. Appropriations and allocations.

The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Accident - Sickness - Health Insurance 0455

Initiative: Reorganizes one Public Service Manager I position from range 25 to range 28 and one Public Service Coordinator I position from range 22 to range 25 and transfers All Other to Personal Services to fund the reorganization.

Table with 3 columns: Category, 2011-12, 2012-13. Rows include ACCIDENT, SICKNESS AND HEALTH INSURANCE INTERNAL SERVICE FUND, Personal Services, All Other, ACCIDENT, SICKNESS AND HEALTH INSURANCE INTERNAL SERVICE FUND TOTAL.

Administration - Human Resources 0038

Initiative: Transfers one Office Associate II position from the Administration - Human Resources program to the Purchases - Division of program to align workflow in the Department of Administrative and Financial Services.

Table with 3 columns: Category, 2011-12, 2012-13. Rows include GENERAL FUND, POSITIONS - LEGISLATIVE COUNT, Personal Services, GENERAL FUND TOTAL.

Buildings and Grounds Operations 0080

Initiative: Transfers one Space Management Specialist position and related All Other costs from the Revenue Services - Bureau of program to the Buildings and Grounds Operations program.

Table with 3 columns: Category, 2011-12, 2012-13. Rows include GENERAL FUND, POSITIONS - LEGISLATIVE COUNT, Personal Services, All Other, GENERAL FUND TOTAL.

**Buildings and Grounds Operations 0080**

Initiative: Provides funding for fuel for state-owned buildings due to the increase in the contracted price.

GENERAL FUND	2011-12	2012-13
All Other	\$646,454	\$0
<b>GENERAL FUND TOTAL</b>	<b>\$646,454</b>	<b>\$0</b>

**Capital Construction/Repairs/Improvements - Administration 0059**

Initiative: Provides one-time funds to renovate office space for the Department of Audit.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$57,680
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$57,680</b>

**Departments and Agencies - Statewide 0016**

Initiative: Adjusts funding to reflect projected savings to be achieved through a retirement incentive program.

GENERAL FUND	2011-12	2012-13
Personal Services	\$420,154	(\$583,432)
<b>GENERAL FUND TOTAL</b>	<b>\$420,154</b>	<b>(\$583,432)</b>

**Financial and Personnel Services - Division of 0713**

Initiative: Transfers one vacant Marine Resources Scientist I position from the Bureau of Resource Management program in the Department of Marine Resources to the Financial and Personnel Services - Division of program in the Department of Administrative and Financial Services and reorganizes the position to one Senior Staff Accountant position.

FINANCIAL AND PERSONNEL SERVICES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$18,434	\$68,913
<b>FINANCIAL AND PERSONNEL SERVICES FUND TOTAL</b>	<b>\$18,434</b>	<b>\$68,913</b>

**Purchases - Division of 0007**

Initiative: Transfers one Office Associate II position from the Administration - Human Resources program to the Purchases - Division of program to align work-

flow in the Department of Administrative and Financial Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$10,550	\$41,811
<b>GENERAL FUND TOTAL</b>	<b>\$10,550</b>	<b>\$41,811</b>

**Revenue Services, Bureau of 0002**

Initiative: Transfers one Space Management Specialist position and related All Other costs from the Revenue Services - Bureau of program to the Buildings and Grounds Operations program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$72,430)
All Other	\$0	(\$1,735)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$74,165)</b>

**Revenue Services, Bureau of 0002**

Initiative: Reduces funding for database storage for the Maine Revenue Integrated Tax System as a result of a reduced storage requirement for user acceptance testing.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$120,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$120,000)</b>

**Revenue Services, Bureau of 0002**

Initiative: Eliminates one Office Assistant II position and related All Other savings in the Revenue Services - Bureau of program resulting from internal reorganization efforts by the bureau.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$48,269)
All Other	\$0	(\$11,796)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$60,065)</b>

**Revenue Services, Bureau of 0002**

Initiative: Reduces funding through the conversion of 3 physical servers to virtual servers in the Revenue Services - Bureau of program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$20,236)
<hr/>		
GENERAL FUND TOTAL	\$0	(\$20,236)

**Revenue Services, Bureau of 0002**

Initiative: Reduces All Other funding as a result of the repeal of the annual pass-through entity information return filing requirement.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$42,000)
<hr/>		
GENERAL FUND TOTAL	\$0	(\$42,000)

**Revenue Services, Bureau of 0002**

Initiative: Eliminates one Office Assistant II position and related All Other costs as a result of discontinuing the printing and mailing of a sales tax form related to vehicle and equipment sales transactions.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$46,932)
All Other	\$0	(\$17,216)
<hr/>		
GENERAL FUND TOTAL	\$0	(\$64,148)

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$1,066,608	(\$832,201)
FINANCIAL AND PERSONNEL SERVICES FUND	\$18,434	\$68,913
ACCIDENT, SICKNESS AND HEALTH INSURANCE	\$0	\$0
INTERNAL SERVICE FUND		
<hr/>		
DEPARTMENT TOTAL - ALL FUNDS	\$1,085,042	(\$763,288)

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

**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

**Certified Seed Fund 0787**

Initiative: Continues one intermittent Agricultural Worker II position and reduces All Other to fund the position. This position was previously authorized in Financial Order 005933 F0.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - FTE COUNT	0.000	0.188
Personal Services	\$0	\$11,249
All Other	\$0	(\$11,249)
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$0
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**Certified Seed Fund 0787**

Initiative: Provides funding to increase the hours of one Office Associate II position from 64 hours to 80 hours biweekly and reduces All Other to fund the increased hours. Also reallocates the cost of the position from 100% Certified Seed Fund program, Other Special Revenue Funds to 50% Certified Seed Fund program, Other Special Revenue Funds and 50% Division of Quality Assurance and Regulation program, Federal Expenditures Fund.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	(\$16,538)
All Other	\$0	(\$762)
<hr/>		
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$17,300)

**Division of Agricultural Resource Development 0833**

Initiative: Transfers one Agricultural Promotional Coordinator position and related All Other from the Office of the Commissioner program to the Division of Agricultural Resource Development program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$76,592
All Other	\$0	\$10,000

GENERAL FUND TOTAL	\$0	\$86,592
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$99,359
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$99,359

**Division of Agricultural Resource Development 0833**

Initiative: Transfers one Agricultural Promotional Specialist position and related All Other from the Harness Racing Commission program to the Division of Agricultural Resource Development program.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$57,088
All Other	\$0	\$15,487
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$72,575

**Division of Agricultural Resource Development 0833**

Initiative: Establishes one Consumer Protection Inspector position in the Division of Quality Assurance and Regulation program funded 50% General Fund and 50% Federal Expenditures Fund. Eliminates one Planning and Research Associate II position in the Division of Agricultural Resource Development program funded 50% General Fund and 50% Federal Expenditures Fund to partially fund this action.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$28,462)
GENERAL FUND TOTAL	\$0	(\$28,462)
<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$28,463)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$28,463)

**Division of Plant Industry 0831**

Initiative: Reallocates the cost of one Entomologist II position from 100% Federal Expenditures Fund to 74% Federal Expenditures Fund and 26% General Fund in the same program. Eliminates one intermittent Entomologist I position and uses a portion of the General Fund savings to fund the reallocation.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - FTE COUNT	0.000	(0.481)
Personal Services	\$0	(\$3,513)
GENERAL FUND TOTAL	\$0	(\$3,513)

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$18,449)
All Other	\$0	(\$849)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$19,298)

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$8,311)
All Other	\$0	(\$382)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$8,693)

**Division of Quality Assurance and Regulation 0393**

Initiative: Establishes one Consumer Protection Inspector position in the Division of Quality Assurance and Regulation program funded 50% General Fund and 50% Federal Expenditures Fund. Eliminates one Planning and Research Associate II position in the Division of Agricultural Resource Development program funded 50% General Fund and 50% Federal Expenditures Fund to partially fund this action.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$29,329
GENERAL FUND TOTAL	\$0	\$29,329
<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$29,332

FEDERAL EXPENDITURES	\$0	\$29,332
FUND TOTAL		

**Division of Quality Assurance and Regulation 0393**

Initiative: Provides funding to increase the hours of one Office Associate II position from 64 hours to 80 hours biweekly and reduces All Other to fund the increased hours. Also reallocates the cost of the position from 100% Certified Seed Fund program, Other Special Revenue Funds to 50% Certified Seed Fund program, Other Special Revenue Funds and 50% Division of Quality Assurance and Regulation program, Federal Expenditures Fund.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$27,095
All Other	\$0	(\$27,095)
<hr/>		
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$0

**Harness Racing Commission 0320**

Initiative: Transfers one Agricultural Promotional Specialist position and related All Other from the Harness Racing Commission program to the Division of Agricultural Resource Development program.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$57,088)
All Other	\$0	(\$15,487)
<hr/>		
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$72,575)

**Harness Racing Commission 0320**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$52,646)	(\$89,201)
<hr/>		
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$52,646)	(\$89,201)

**Harness Racing Commission 0320**

Initiative: Reduces funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$103,467)	(\$134,128)
<hr/>		
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$103,467)	(\$134,128)

**Office of the Commissioner 0401**

Initiative: Transfers one Agricultural Promotional Coordinator position and related All Other from the Office of the Commissioner program to the Division of Agricultural Resource Development program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$76,592)
All Other	\$0	(\$10,000)
<hr/>		
GENERAL FUND TOTAL	\$0	(\$86,592)

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	(\$99,359)
<hr/>		
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$99,359)

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF	2011-12	2012-13
DEPARTMENT TOTALS		
GENERAL FUND	\$0	(\$2,646)
FEDERAL EXPENDITURES FUND	\$0	(\$18,429)
OTHER SPECIAL REVENUE FUNDS	(\$156,113)	(\$249,322)
<hr/>		
DEPARTMENT TOTAL - ALL FUNDS	(\$156,113)	(\$270,397)

**Sec. A-3. Appropriations and allocations.**  
The following appropriations and allocations are made.

**ATTORNEY GENERAL, DEPARTMENT OF THE**

**Administration - Attorney General 0310**

Initiative: Establishes one part-time Assistant Attorney General position to serve as an ombudsman and assist in compliance with the State's freedom of access laws in accordance with the Maine Revised Statutes, Title 5, section 200-I.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	0.500
Personal Services	\$0	\$36,531
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$36,531</b>

**Administration - Attorney General 0310**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$17,110)	(\$17,110)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$17,110)</b>	<b>(\$17,110)</b>

**FHM - Attorney General 0947**

Initiative: Provides funding to address an attrition and fringe benefit shortfall.

FUND FOR A HEALTHY MAINE	2011-12	2012-13
Personal Services	\$3,992	\$0
<b>FUND FOR A HEALTHY MAINE TOTAL</b>	<b>\$3,992</b>	<b>\$0</b>

**Human Services Division 0696**

Initiative: Continues one Secretary Specialist position assigned to the United States Food and Drug Administration tobacco enforcement program that was originally established by financial order.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$68,980
All Other	\$0	\$1,984
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$70,964</b>

**Victims' Compensation Board 0711**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$25,371)	(\$18,637)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$25,371)</b>	<b>(\$18,637)</b>

**ATTORNEY GENERAL, DEPARTMENT OF THE DEPARTMENT TOTALS**

	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$36,531</b>
<b>FUND FOR A HEALTHY MAINE</b>	<b>\$3,992</b>	<b>\$0</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>(\$42,481)</b>	<b>\$35,217</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$38,489)</b>	<b>\$71,748</b>

**Sec. A-4. Appropriations and allocations.**

The following appropriations and allocations are made.

**CHARTER SCHOOL COMMISSION, STATE**

**State Charter School Commission Z137**

Initiative: Provides funding to reimburse the State Charter School Commission members for travel expenses. The cost of this change is offset with savings from General Fund accounts in the Department of Education.

GENERAL FUND	2011-12	2012-13
All Other	\$10,000	\$20,000
<b>GENERAL FUND TOTAL</b>	<b>\$10,000</b>	<b>\$20,000</b>

**State Charter School Commission Z137**

Initiative: Provides funding to cover costs for overseeing public charter schools.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$500
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$500</b>

**CHARTER SCHOOL  
COMMISSION, STATE**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$10,000	\$20,000
OTHER SPECIAL REVENUE FUNDS	\$0	\$500
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$10,000</b>	<b>\$20,500</b>

**Sec. A-5. Appropriations and allocations.**  
The following appropriations and allocations are made.

**COMMUNITY COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE MAINE**

**Maine Community College System - Board of Trustees 0556**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$2,507)	(\$9,615)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$2,507)</b>	<b>(\$9,615)</b>

**Maine Community College System - Board of Trustees 0556**

Initiative: Reduces funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$11,603)	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$11,603)</b>	<b>\$0</b>

**COMMUNITY COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE MAINE**

DEPARTMENT TOTALS	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	(\$14,110)	(\$9,615)

DEPARTMENT TOTAL - ALL FUNDS	2011-12	2012-13
	(\$14,110)	(\$9,615)

**Sec. A-6. Appropriations and allocations.**  
The following appropriations and allocations are made.

**CONSERVATION, DEPARTMENT OF  
Floodplain Management N140**

Initiative: Transfers one Planner II position and 2 Senior Planner positions and All Other funds for general operations and technical assistance from the Planning Office program in the Executive Department to the Floodplain Management program in the Department of Conservation to support floodplain management.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$41,250
All Other	\$0	\$10,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$51,250</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	3.000
Personal Services	\$0	\$184,532
All Other	\$0	\$64,472
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$249,004</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$500
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$500</b>

**Geological Survey 0237**

Initiative: Transfers one Public Service Manager II position, one Public Service Coordinator I position, 2 Senior Planner positions, one Secretary Associate position and one Business Manager I position from the Planning Office program in the Executive Department to the Geological Survey program and Office of the Commissioner program in the Department of Conservation.

FEDERAL EXPENDITURES FUND	2011-12	2012-13

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POSITIONS - LEGISLATIVE COUNT	0.000	5.000
Personal Services	\$0	\$355,941
All Other	\$0	\$1,006,242
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$1,362,183</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$500
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$500</b>

Personal Services	\$0	\$145,755
All Other	\$0	\$13,462
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$159,217</b>

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$71,185
All Other	\$0	\$5,000
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$76,185</b>

**Natural Areas Program 0821**

Initiative: Transfers one Public Service Manager I position from the Planning Office program in the Executive Department to the Office of the Commissioner program in the Department of Conservation and 3 Senior Planner positions and related All Other from the Planning Office program in the Executive Department to the Natural Areas Program in the Department of Conservation.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$183,516
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$183,516</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	3.000
Personal Services	\$0	\$228,315
All Other	\$0	\$291,901
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$520,216</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$49,707
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$49,707</b>

**Office of the Commissioner 0222**

Initiative: Transfers one Public Service Manager I position from the Planning Office program in the Executive Department to the Office of the Commissioner program in the Department of Conservation and 3 Senior Planner positions and related All Other from the Planning Office program in the Executive Department to the Natural Areas Program in the Department of Conservation.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$87,508
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$87,508</b>

**Natural Areas Program 0821**

Initiative: Transfers one Senior Planner position from the Land for Maine's Future Fund program in the Executive Department and 2 Senior Planner positions from the Planning Office program in the Executive Department to the Natural Areas Program in the Department of Conservation. Also transfers related All Other to the Natural Areas Program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	2.000

**Office of the Commissioner 0222**

Initiative: Transfers one Public Service Manager II position, one Public Service Coordinator I position, 2 Senior Planner positions, one Secretary Associate position and one Business Manager I position from the Planning Office program in the Executive Department to the Geological Survey program and the Office of the Commissioner program in the Department of Conservation. Also transfers All Other funding for the Maine Coastal Program function from the Planning Office program in the Executive Department to the

Geological Survey program and the Office of Commissioner program in the Department of Conservation.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$65,861
All Other	\$0	\$244,820

OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$310,681
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**CONSERVATION, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	\$393,983
FEDERAL EXPENDITURES FUND	\$0	\$2,207,588
OTHER SPECIAL REVENUE FUNDS	\$0	\$448,896
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$3,050,467</b>

**Sec. A-7. Appropriations and allocations.**

The following appropriations and allocations are made.

**CORRECTIONS, DEPARTMENT OF**

**Administration - Corrections 0141**

Initiative: Reduces funding on a one-time basis for contracted housing and professional contracts.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$250,000)	\$0
<b>GENERAL FUND TOTAL</b>	<b>(\$250,000)</b>	<b>\$0</b>

**Adult Community Corrections 0124**

Initiative: Reduces funding on a one-time basis for vehicle rentals, general operations and contracted crisis intervention services.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$138,000)	\$0
<b>GENERAL FUND TOTAL</b>	<b>(\$138,000)</b>	<b>\$0</b>

**Correctional Center 0162**

Initiative: Eliminates 6 medical positions from the State Prison program, 3 medical positions from the Mountain View Youth Development Center program, 6 medical positions from the Long Creek Youth Development Center program and one Clinical Social Worker position from the Correctional Center program effective in fiscal year 2012-13 and transfers savings to All Other in the Correctional Medical Services Fund program. Details of the eliminated positions are on file with the Bureau of the Budget.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$93,293)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$93,293)</b>

**Correctional Medical Services Fund 0286**

Initiative: Eliminates one Correctional LPN position, one Public Service Manager III position, one Nurse II position, one Nurse III position and 2 Clinical Social Worker positions from the State Prison program and one Psychiatric Social Worker II position effective in fiscal year 2011-12 and one Nurse III position effective in fiscal year 2012-13 from the Long Creek Youth Development Center program and transfers the savings to All Other in the Correctional Medical Services Fund program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$545,234	\$671,692
<b>GENERAL FUND TOTAL</b>	<b>\$545,234</b>	<b>\$671,692</b>

**Correctional Medical Services Fund 0286**

Initiative: Eliminates 6 medical positions from the State Prison program, 3 medical positions from the Mountain View Youth Development Center program, 6 medical positions from the Long Creek Youth Development Center program and one Clinical Social Worker position from the Correctional Center program effective in fiscal year 2012-13 and transfers savings to All Other in the Correctional Medical Services Fund program. Details of the eliminated positions are on file with the Bureau of the Budget.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$1,512,321
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$1,512,321</b>

**Juvenile Community Corrections 0892**

Initiative: Reduces funding on a one-time basis for minor equipment purchases, for social aid for juveniles

in the community and for contracted services that were initiated later than anticipated.

GENERAL FUND	2011-12	2012-13
All Other	(\$112,000)	\$0
<b>GENERAL FUND TOTAL</b>	<b>(\$112,000)</b>	<b>\$0</b>

**Long Creek Youth Development Center 0163**

Initiative: Eliminates one Correctional LPN position, one Public Service Manager III position, one Nurse II position, one Nurse III position and 2 Clinical Social Worker positions from the State Prison program and one Psychiatric Social Worker II position effective in fiscal year 2011-12 and one Nurse III position effective in fiscal year 2012-13 from the Long Creek Youth Development Center program and transfers the savings to All Other in the Correctional Medical Services Fund program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	(2.000)
Personal Services	(\$63,539)	(\$148,314)
<b>GENERAL FUND TOTAL</b>	<b>(\$63,539)</b>	<b>(\$148,314)</b>

**Long Creek Youth Development Center 0163**

Initiative: Eliminates 6 medical positions in the State Prison program, 3 medical positions in the Mountain View Youth Development Center program and 6 medical positions in the Long Creek Youth Development Center program and transfers savings to All Other in the Correctional Medical Services Fund program. Details of the eliminated positions are on file with the Bureau of the Budget.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(6.000)
Personal Services	\$0	(\$579,697)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$579,697)</b>

**Mountain View Youth Development Center 0857**

Initiative: Eliminates 6 medical positions in the State Prison program, 3 medical positions in the Mountain View Youth Development Center program and 6 medical positions in the Long Creek Youth Development Center program and transfers savings to All Other in the Correctional Medical Services Fund program. Details of the eliminated positions are on file with the Bureau of the Budget.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(3.000)
Personal Services	\$0	(\$365,966)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$365,966)</b>

**State Prison 0144**

Initiative: Eliminates one Correctional LPN position, one Public Service Manager III position, one Nurse II position, one Nurse III position and 2 Clinical Social Worker positions from the State Prison program and one Psychiatric Social Worker II position effective in fiscal year 2011-12 and one Nurse III position effective in fiscal year 2012-13 from the Long Creek Youth Development Center program and transfers the savings to All Other in the Correctional Medical Services Fund program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(6.000)	(6.000)
Personal Services	(\$481,695)	(\$523,378)
<b>GENERAL FUND TOTAL</b>	<b>(\$481,695)</b>	<b>(\$523,378)</b>

**State Prison 0144**

Initiative: Eliminates 6 medical positions in the State Prison program, 3 medical positions in the Mountain View Youth Development Center program and 6 medical positions in the Long Creek Youth Development Center program and transfers savings to All Other in the Correctional Medical Services Fund program. Details of the eliminated positions are on file with the Bureau of the Budget.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(6.000)
Personal Services	\$0	(\$473,365)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$473,365)</b>

CORRECTIONS, DEPARTMENT OF	2011-12	2012-13
<b>DEPARTMENT TOTALS</b>		
GENERAL FUND	(\$500,000)	\$0
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$500,000)</b>	<b>\$0</b>

**Sec. A-8. Appropriations and allocations.**  
The following appropriations and allocations are made.

**CORRECTIONS, STATE BOARD OF  
State Board of Corrections Investment Fund Z087**

Initiative: Continues one Public Service Executive I position created by Financial Order 006420F1 and reduces All Other to fund the position.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$93,864
All Other	\$0	(\$93,864)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$0

**State Board of Corrections Investment Fund Z087**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$135,000)	(\$135,000)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$135,000)	(\$135,000)

**State Board of Corrections Investment Fund Z087**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$48,000)	(\$48,000)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$48,000)	(\$48,000)

**CORRECTIONS, STATE BOARD OF  
DEPARTMENT TOTALS**

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
	(\$183,000)	(\$183,000)
	<hr/>	<hr/>
DEPARTMENT TOTAL - ALL FUNDS	(\$183,000)	(\$183,000)

**Sec. A-9. Appropriations and allocations.**  
The following appropriations and allocations are made.

**DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF  
Disaster Assistance 0841**

Initiative: Provides funding for the State's share of disaster assistance for previously declared disasters: Aroostook April and May Flood 2008, February and March Floods 2010, December Rains Flood 2010 and Tropical Storm Irene 2011.

GENERAL FUND	2011-12	2012-13
All Other	\$700,000	\$0
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$700,000	\$0

**Military Training and Operations 0108**

Initiative: Continues one Maintenance Mechanic position created by Financial Order 006400F1 and continued through Financial Order 000219F2.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$60,300
	<hr/>	<hr/>
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$60,300

**Military Training and Operations 0108**

Initiative: Transfers funding from the All Other line category to the Personal Services line category to fund additional use of active duty personnel.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	\$28,000
All Other	\$0	(\$28,000)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$0

**Military Training and Operations 0108**

Initiative: Establishes one Teacher, BS position.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$28,164	\$91,200

FEDERAL EXPENDITURES	\$28,164	\$91,200
FUND TOTAL		

**Military Training and Operations 0108**

Initiative: Establishes one Teacher Aide position.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$13,758	\$55,378
FEDERAL EXPENDITURES FUND TOTAL	\$13,758	\$55,378

**Military Training and Operations 0108**

Initiative: Establishes one Maintenance Mechanic position funded 25% General Fund and 75% Federal Expenditures Fund. The General Fund cost in fiscal year 2011-12 will be funded through salary and benefits savings in the department.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$15,476
GENERAL FUND TOTAL	\$0	\$15,476
FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$11,542	\$46,437
FEDERAL EXPENDITURES FUND TOTAL	\$11,542	\$46,437

**Veterans Services 0110**

Initiative: Provides funding for leased space in Machias.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$6,600
GENERAL FUND TOTAL	\$0	\$6,600

**Veterans Services 0110**

Initiative: Provides funding for the approved reclassification of one Office Assistant II position to an Office Associate II position. Funding for fiscal year 2011-12

will be through salary and benefits savings in the department.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$2,412
GENERAL FUND TOTAL	\$0	\$2,412
DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF	2011-12	2012-13
GENERAL FUND	\$700,000	\$24,488
FEDERAL EXPENDITURES FUND	\$53,464	\$253,315
OTHER SPECIAL REVENUE FUNDS	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	\$753,464	\$277,803

**Sec. A-10. Appropriations and allocations.**  
The following appropriations and allocations are made.

**DIRIGO HEALTH**  
**Dirigo Health Fund 0988**

Initiative: Provides funding for a federal grant anticipated to support continued progress toward the planning and establishment of a state health insurance exchange.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$5,877,676	\$0
FEDERAL EXPENDITURES FUND TOTAL	\$5,877,676	\$0

**Sec. A-11. Appropriations and allocations.**  
The following appropriations and allocations are made.

**ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**  
**Business Development 0585**

Initiative: Reallocates the cost of one Development Project Officer position from 50% Business Development program, General Fund and 50% Community Development Block Grant Program, General Fund to 100% Business Development program, General Fund to recognize the duties assigned to this position.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$37,415
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	\$37,415

**Community Development Block Grant Program 0587**

Initiative: Reallocates the cost of one Development Project Officer position from 50% Business Development program, General Fund and 50% Community Development Block Grant Program, General Fund to 100% Business Development program, General Fund to recognize the duties assigned to this position.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$37,415)
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	(\$37,415)

**Community Development Block Grant Program 0587**

Initiative: Transfers one Public Service Coordinator I position and related All Other funding to oversee the operation of state-owned landfills from the Planning Office program in the Executive Department to the Community Development Block Grant Program in the Department of Economic and Community Development.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$87,691
All Other	\$0	\$81,215
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$168,906

**Community Development Block Grant Program 0587**

Initiative: Transfers one Planner II position and All Other funds for general operation from the Maine Code Enforcement Training and Certification Fund program in the Executive Department to the Community Development Block Grant Program in the Department of Economic and Community Development.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$61,210

All Other	\$0	\$41,256
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$102,466

**Office of Tourism 0577**

Initiative: Reorganizes one Public Service Manager II position to a Public Service Coordinator II position and reduces All Other to fund the reorganization.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$891	\$3,566
All Other	(\$891)	(\$3,566)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$0

**ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$0</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$271,372</b>
	<hr/>	<hr/>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$271,372</b>

**Sec. A-12. Appropriations and allocations.**

The following appropriations and allocations are made.

**EDUCATION, DEPARTMENT OF**

**Child Development Services 0449**

Initiative: Transfers funding from the General Purpose Aid for Local Schools program to the Child Development Services program in order to provide services to children from birth to 5 years of age.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$3,500,000	\$4,500,000
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$3,500,000	\$4,500,000

**General Purpose Aid for Local Schools 0308**

Initiative: Transfers the head count for one Director of Planning and Management Information position from the General Purpose Aid for Local Schools program to

the Leadership Team program in order to reflect the position in the appropriate account.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
GENERAL FUND TOTAL	\$0	\$0

**General Purpose Aid for Local Schools 0308**

Initiative: Transfers funding from the General Purpose Aid for Local Schools program to the Child Development Services program in order to provide services to children from birth to 5 years of age.

GENERAL FUND	2011-12	2012-13
All Other	(\$3,500,000)	(\$4,500,000)
GENERAL FUND TOTAL	(\$3,500,000)	(\$4,500,000)

**Leadership Team Z077**

Initiative: Reallocates 5% of the cost of one Public Service Manager II position and related All Other funding from the Leadership Team program to the PK-20, Adult Education and Federal Programs Team program to complete the reorganization included in Public Law 2011, chapter 380.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	(\$5,109)
All Other	\$0	(\$675,110)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$680,219)

**Leadership Team Z077**

Initiative: Transfers the head count for one Director of Planning and Management Information position from the General Purpose Aid for Local Schools program to the Leadership Team program in order to reflect the position in the appropriate account.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
GENERAL FUND TOTAL	\$0	\$0

**Leadership Team Z077**

Initiative: Transfers one Regional Education Representative position from the PK-20, Adult Education and Federal Programs Team program to the Leader-

ship Team program in order to reflect the position in the appropriate program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$95,013	\$95,045
GENERAL FUND TOTAL	\$95,013	\$95,045

**Maine Community Services Z134**

Initiative: Transfers one Public Service Manager I position, 3 Senior Planner positions and one Planning and Research Associate I position from the Planning Office program in the Executive Department to the Maine Community Services program in the Department of Education.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	5.000
Personal Services	\$0	\$327,549
All Other	\$0	\$976,963
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$1,304,512

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$100,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$100,000

**PK-20, Adult Education and Federal Programs Team Z081**

Initiative: Eliminates funding in the Learning Connections account in the PK-20, Adult Education and Federal Programs Team program. The department no longer receives funding from the learn and serve America school-based and community-based program grant.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$425,289)	(\$425,289)
FEDERAL EXPENDITURES FUND TOTAL	(\$425,289)	(\$425,289)

**PK-20, Adult Education and Federal Programs Team Z081**

Initiative: Reallocates 5% of the cost of one Public Service Manager II position and related All Other funding from the Leadership Team program to the PK-20, Adult Education and Federal Programs Team program to complete the reorganization included in Public Law 2011, chapter 380.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$5,109
All Other	\$0	\$675,110
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$680,219</b>

**PK-20, Adult Education and Federal Programs Team Z081**

Initiative: Provides funding for the purpose of assisting homeless youth to attend school through the federal McKinney-Vento Homeless Assistance Act grant.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	\$32,792
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$32,792</b>

**PK-20, Adult Education and Federal Programs Team Z081**

Initiative: Transfers one Regional Education Representative position from the PK-20, Adult Education and Federal Programs Team program to the Leadership Team program in order to reflect the position in the appropriate program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	(\$95,013)	(\$95,045)
<b>GENERAL FUND TOTAL</b>	<b>(\$95,013)</b>	<b>(\$95,045)</b>

**PK-20, Adult Education and Federal Programs Team Z081**

Initiative: Reallocates the cost of one Education Specialist III position from 75% Federal Expenditures Fund and 25% PK-20 Adult Education and Federal Programs Team program - General Fund to 85% PK-20 Adult Education and Federal Programs Team program - General Fund. Further reallocates 75% of one Education Specialist III position from PK-20 Adult Education and Federal Programs Team program - General Fund to the Federal Expenditures Fund.

GENERAL FUND	2011-12	2012-13
Personal Services	(\$2,194)	(\$2,196)
<b>GENERAL FUND TOTAL</b>	<b>(\$2,194)</b>	<b>(\$2,196)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$2,194	\$2,196
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$2,194</b>	<b>\$2,196</b>

**School Finance and Operations Z078**

Initiative: Provides funding to match available federal funds in the National School Lunch Program under 7 Code of Federal Regulations, Part 210 (2007).

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$20,046
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$20,046</b>

**School Finance and Operations Z078**

Initiative: Establishes one Education Specialist II position in the School Nutrition program and associated All Other. The new position is 100% federally funded and performs duties associated with the federal nutrition program and reporting responsibilities.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$83,914
All Other	\$0	\$7,727
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$91,641</b>

EDUCATION, DEPARTMENT OF DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	(\$2,194)	\$17,850
FEDERAL EXPENDITURES FUND	(\$423,095)	\$1,005,852
OTHER SPECIAL REVENUE FUNDS	\$0	\$100,000
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$425,289)</b>	<b>\$1,123,702</b>

**Sec. A-13. Appropriations and allocations.**  
The following appropriations and allocations are made.

**EFFICIENCY MAINE TRUST**

**Efficiency Maine Trust Z100**

Initiative: Eliminates one Public Service Coordinator II position and one Public Service Coordinator III position no longer needed since those Efficiency Maine Trust employees who had elected to remain state employees in accordance with Public Law 2009, chapter 372, Part C have retired. Also adjusts Personal Services allocation to ensure funds are available to meet remaining payroll obligations for fiscal year 2011-12. Transfers the Personal Services savings to All Other.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(2,000)	(2,000)
Personal Services	(\$107,696)	(\$180,749)
All Other	\$107,696	\$180,749
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$0

**Efficiency Maine Trust Z100**

Initiative: Provides funding to bring the All Other allocation up to the level of anticipated transfers and revenues.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$28,786	\$38,263
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$28,786	\$38,263

**Efficiency Maine Trust Z100**

Initiative: Provides funding for an increase on a one-time basis for alternative compliance mechanism payments in fiscal year 2011-12.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$12,537	\$0
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$12,537	\$0

**Efficiency Maine Trust Z100**

Initiative: Adjusts funding to fund a transfer of one Economic Analyst position from the Public Advocate program in the Executive Department to the Govern-

nor's Energy Office program in the Executive Department.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	(\$124,613)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$124,613)
EFFICIENCY MAINE TRUST DEPARTMENT TOTALS	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	\$41,323	(\$86,350)
	<hr/>	<hr/>
DEPARTMENT TOTAL - ALL FUNDS	\$41,323	(\$86,350)

**Sec. A-14. Appropriations and allocations.**  
The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

**Administration - Environmental Protection 0251**

Initiative: Reorganizes one Office Specialist I position to an Office Specialist II position and transfers the position from the Remediation and Waste Management program, Other Special Revenue Funds to the Administration - Environmental Protection program, Other Special Revenue Funds. Reduces All Other to fund the position.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$63,394	\$65,731
All Other	(\$63,394)	(\$65,731)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$0

**Performance Partnership Grant 0851**

Initiative: Provides funding for the reclassification of one Environmental Technician position to a Geology Technician II position and reduces All Other to fund the reclassification.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$294	\$1,255

All Other	(\$294)	(\$1,255)
FEDERAL EXPENDITURES	\$0	\$0
FUND TOTAL		

**Remediation and Waste Management 0247**

Initiative: Reorganizes one Office Specialist I position to an Office Specialist II position and transfers the position from the Remediation and Waste Management program, Other Special Revenue Funds to the Administration - Environmental Protection program, Other Special Revenue Funds. Reduces All Other to fund the position.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
Personal Services	(\$60,078)	(\$62,244)
All Other	(\$1,697)	(\$1,758)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$61,775)	(\$64,002)

**Remediation and Waste Management 0247**

Initiative: Transfers funding for All Other costs from the Planning Office program in the Executive Department to the Remediation and Waste Management program in the Department of Environmental Protection for general operations and technical assistance to support recycling and waste management functions.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$671,729
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$671,729

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
FEDERAL EXPENDITURES FUND	\$0	\$0
OTHER SPECIAL REVENUE FUNDS	(\$61,775)	\$607,727
DEPARTMENT TOTAL - ALL FUNDS	(\$61,775)	\$607,727

**Sec. A-15. Appropriations and allocations.**  
The following appropriations and allocations are made.

**EXECUTIVE DEPARTMENT**

**Floodplain Mapping Fund Z116**

Initiative: Transfers one Planner II position and 2 Senior Planner positions and All Other funds for general operations and technical assistance from the Planning Office program in the Executive Department to the Floodplain Management program in the Department of Conservation to support floodplain management.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	(\$500)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$500)

**Governor's Energy Office Z122**

Initiative: Transfers one Senior Planner position and transfers and reallocates the cost of one Senior Planner position from 60% General Fund and 40% Federal Expenditures Fund to 100% Federal Expenditures Fund from the Planning Office program to the Governor's Energy Office program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	2.000
Personal Services	\$0	\$138,482
All Other	\$0	\$1,644,074
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$1,782,556

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$100,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$100,000

**Governor's Energy Office Z122**

Initiative: Transfers one Economic Analyst position from the Public Advocate program to the Governor's Energy Office program and reorganizes the position to a Governor's Special Assistant position.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13

POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$124,613
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$124,613

**Land for Maine's Future Fund 0060**

Initiative: Transfers one Senior Planner position from the Land for Maine's Future Fund program and 2 Senior Planner positions from the Planning Office program in the Executive Department to the Natural Areas Program in the Department of Conservation. Also transfers related All Other to the Natural Areas Program in the Department of Conservation.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$72,650)
All Other	\$0	(\$4,962)
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	(\$77,612)

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$49,707)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$49,707)

**Maine Code Enforcement Training and Certification Fund Z093**

Initiative: Transfers one Planner II position and All Other funds for general operations from the Maine Code Enforcement Training and Certification Fund program in the Executive Department to the Department of Conservation. Further eliminates one vacant Planner II position in the Maine Code Enforcement Training and Certification Fund program in the Executive Department.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(2.000)
Personal Services	\$0	(\$127,041)
All Other	\$0	(\$8,922)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$135,963)

**Office of Policy and Management Z135**

Initiative: Establishes one Director, Governor's Office of Policy and Management position in fiscal year 2011-12, transfers one Public Service Executive II position and one Economist position and transfers General Fund savings in Personal Services and All Other from the Planning Office program reorganization in the Executive Department to establish the new oversight agency, the Governor's Office of Policy and Management.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	1.000	3.000
Personal Services	\$21,696	\$559,834
All Other	\$5,000	\$113,641
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$26,696	\$673,475

**Planning Office 0082**

Initiative: Eliminates one Director, State Planning Office position, 3 Public Service Executive I positions and one Secretary Associate position in the Planning Office program. Additionally, transfers one Public Service Executive II position and one Economist position from the Planning Office program to the new oversight agency, the Governor's Office of Policy and Management. Further transfers General Fund savings in the elimination of positions and programs to establish the new oversight agency, the Governor's Office of Policy and Management.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(7.000)
Personal Services	(\$21,696)	(\$615,801)
All Other	(\$5,000)	(\$113,641)
	<hr/>	<hr/>
GENERAL FUND TOTAL	(\$26,696)	(\$729,442)

**Planning Office 0082**

Initiative: Transfers one Senior Planner position and transfers and reallocates the cost of one Senior Planner position from 60% General Fund, 40% Federal Expenditures Fund to 100% Federal Expenditures Fund from the Planning Office program to the Governor's Energy Office program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$44,033)
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	(\$44,033)

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$94,449)
All Other	\$0	(\$1,688,107)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,782,556)</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$100,000)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$100,000)</b>

**Planning Office 0082**

Initiative: Eliminates one Senior Planner position and 2 Planner II positions in the Planning Office program in the Executive Department and transfers one Public Service Coordinator I position from the Planning Office program in the Executive Department to the Community Development Block Grant Program in the Department of Economic and Community Development. Further transfers All Other funds for general operations and technical assistance to the Remediation and Waste Management program in the Department of Environmental Protection and the Community Development Block Grant Program in the Department of Economic and Community Development to support recycling and waste management functions and land-fill oversight, respectively.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(4.000)
Personal Services	\$0	(\$315,254)
All Other	\$0	(\$361,616)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$676,870)</b>

**Planning Office 0082**

Initiative: Transfers one Public Service Manager I position, 3 Senior Planner positions and one Planning and Research Associate I position from the Planning Office program in the Executive Department to the Maine Community Services program in the Department of Education.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$50,425)</b>

All Other	\$0	(\$40,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$40,000)</b>

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(5.000)
Personal Services	\$0	(\$331,669)
All Other	\$0	(\$972,843)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,304,512)</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$100,000)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$100,000)</b>

**Planning Office 0082**

Initiative: Transfers one Planner II position and All Other funds for general operations from the Maine Code Enforcement Training and Certification Fund program in the Executive Department to the Department of Conservation. Further eliminates one vacant Planner II position in the Maine Code Enforcement Training and Certification Fund program in the Executive Department.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$72,466)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$72,466)</b>

**Planning Office 0082**

Initiative: Transfers one Planner II position and 2 Senior Planner positions and All Other funds for general operations and technical assistance from the Planning Office program in the Executive Department to the Floodplain Management program in the Department of Conservation to support floodplain management.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$40,425)
All Other	\$0	(\$10,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$50,425)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(3.000)
Personal Services	\$0	(\$181,394)
All Other	\$0	(\$64,472)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$245,866)</b>

**Planning Office 0082**

Initiative: Transfers one Public Service Manager I position from the Planning Office program in the Executive Department to the Office of the Commissioner program in the Department of Conservation and 3 Senior Planner positions and related All Other from the Planning Office program in the Executive Department to the Natural Areas Program in the Department of Conservation.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$88,906)
All Other	\$0	(\$183,516)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$272,422)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(3.000)
Personal Services	\$0	(\$230,217)
All Other	\$0	(\$283,218)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$513,435)</b>

**Planning Office 0082**

Initiative: Transfers one Senior Planner position from the Land for Maine's Future Fund program and 2 Senior Planner positions from the Planning Office program in the Executive Department to the Natural Areas Program in the Department of Conservation. Also transfers related All Other to the Natural Areas Program in the Department of Conservation.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$74,373)
All Other	\$0	(\$8,500)

GENERAL FUND TOTAL	\$0	(\$82,873)
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FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$71,819)
All Other	\$0	(\$2,790)

<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$74,609)</b>
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**Planning Office 0082**

Initiative: Transfers one Public Service Manager II position, one Public Service Coordinator I position, 2 Senior Planner positions, one Secretary Associate position and one Business Manager I position from the Planning Office program in the Executive Department to the Geological Survey program and the Office of the Commissioner program in the Department of Conservation. Further transfers All Other funding for the Maine Coastal program function from the Planning Office program in the Executive Department to the Geological Survey program and the Office of the Commissioner program in the Department of Conservation.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(5.000)
Personal Services	\$0	(\$359,111)
All Other	\$0	(\$598,646)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$957,757)</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$66,495)
All Other	\$0	(\$170,176)

<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$236,671)</b>
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**Planning Office 0082**

Initiative: Eliminates one vacant Senior Planner position, one Secretary Specialist position and one vacant

Development Program Manager position. Also eliminates Planning Office program All Other funds.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$79,725)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$79,725)</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(2.000)
Personal Services	\$0	(\$146,808)
All Other	\$0	(\$838,299)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$985,107)</b>

**Public Advocate 0410**

Initiative: Transfers one Economic Analyst position from the Public Advocate program to the Governor's Energy Office program and reorganizes it to a Governor's Special Assistant position.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$124,613)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$124,613)</b>

**EXECUTIVE DEPARTMENT DEPARTMENT TOTALS**

	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$623,332)</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>(\$3,175,904)</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>(\$2,257,284)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$6,056,520)</b>

**Sec. A-16. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)**

**Developmental Services - Community 0122**

Initiative: Provides funding for contracted dental services through a transfer of resources from the Dorothea Dix Psychiatric Center program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$500,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$500,000</b>

**Developmental Services Waiver - Supports Z006**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$26,792)	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$26,792)</b>	<b>\$0</b>

**Developmental Services Waiver - Supports Z006**

Initiative: Adjusts funding to reflect allocations for MaineCare matching funds in the correct account.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$139,230)	(\$184,225)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$139,230)</b>	<b>(\$184,225)</b>

**Disproportionate Share - Dorothea Dix Psychiatric Center 0734**

Initiative: Eliminates 91 positions effective May 1, 2012, eliminates outpatient medication management services, transfers funding for contracted dental services to the Developmental Services - Community program, reduces capacity, restructures Dorothea Dix Psychiatric Center expenses to achieve \$2,500,000 in General Fund savings identified in Public Law 2011, chapter 380, Part A and offsets the deappropriation included in that law. Position detail is on file in the Bureau of the Budget.

GENERAL FUND	2011-12	2012-13
Personal Services	(\$332,335)	(\$2,017,523)

Unallocated	\$0	\$2,500,000
<b>GENERAL FUND TOTAL</b>	<b>(\$332,335)</b>	<b>\$482,477</b>

**Disproportionate Share - Dorothea Dix Psychiatric Center 0734**

Initiative: Adjusts funding to reflect correct reimbursements to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center from MaineCare and to ensure that sufficient resources are available to provide the appropriate level of General Fund match.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$156,701
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$156,701</b>

**Disproportionate Share - Riverview Psychiatric Center 0733**

Initiative: Transfers positions and adjusts funding based on the correct allocation of positions.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$35,406)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$35,406)</b>

**Disproportionate Share - Riverview Psychiatric Center 0733**

Initiative: Adjusts funding to reflect correct reimbursements to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center from MaineCare and to ensure that sufficient resources are available to provide the appropriate level of General Fund match.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$325,844
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$325,844</b>

**Dorothea Dix Psychiatric Center 0120**

Initiative: Eliminates 91 positions effective May 1, 2012, eliminates outpatient medication management services, transfers funding for contracted dental services to the Developmental Services - Community program, reduces capacity, restructures Dorothea Dix Psychiatric Center expenses to achieve \$2,500,000 in General Fund savings identified in Public Law 2011, chapter 380, Part A and offsets the deappropriation included in that law. Position detail is on file in the Bureau of the Budget.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
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All Other	\$150,000	(\$694,811)
<b>GENERAL FUND TOTAL</b>	<b>\$150,000</b>	<b>(\$694,811)</b>

**OTHER SPECIAL REVENUE FUNDS**

POSITIONS - LEGISLATIVE COUNT	(88.500)	(88.500)
POSITIONS - FTE COUNT	(0.240)	(0.240)
Personal Services	(\$312,947)	(\$3,475,927)
All Other	(\$2,600)	(\$945,282)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$315,547)</b>	<b>(\$4,421,209)</b>

**Dorothea Dix Psychiatric Center 0120**

Initiative: Adjusts funding to reflect correct reimbursements to Dorothea Dix Psychiatric Center from Medicare and other 3rd-party payers and to ensure that sufficient resources are available to provide the appropriate level of General Fund match.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$900,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$900,000</b>

**OTHER SPECIAL REVENUE FUNDS**

All Other	\$0	(\$900,000)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$900,000)</b>

**Dorothea Dix Psychiatric Center 0120**

Initiative: Adjusts funding to reflect correct reimbursements to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center from MaineCare and to ensure that sufficient resources are available to provide the appropriate level of General Fund match.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$156,701)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$156,701)</b>

**Forensic Services Z123**

Initiative: Transfers funding from the Office of Management and Budget program to the Forensic Services program in the General Fund and provides funding for the Forensic Services program in the Other Special Revenue Funds.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$70,914
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$70,914</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$17,172
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$17,172</b>

**Medicaid Services - Developmental Services 0705**

Initiative: Reduces funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$192,266)	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$192,266)</b>	<b>\$0</b>

**Medicaid Services - Developmental Services 0705**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$188,216	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$188,216</b>	<b>\$0</b>

**Medicaid Services - Developmental Services 0705**

Initiative: Adjusts funding to reflect allocations for MaineCare matching funds in the correct account.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$80,376)	(\$106,948)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$80,376)</b>	<b>(\$106,948)</b>

**Mental Health Services - Community Medicaid 0732**

Initiative: Reduces funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$268,333)	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$268,333)</b>	<b>\$0</b>

**Mental Health Services - Community Medicaid 0732**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$6,352	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$6,352</b>	<b>\$0</b>

**Office of Substance Abuse - Medicaid Seed 0844**

Initiative: Reduces funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$52,628)	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$52,628)</b>	<b>\$0</b>

**Office of Substance Abuse - Medicaid Seed 0844**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$1,431	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$1,431</b>	<b>\$0</b>

**Residential Treatment Facilities Assessment 0978**

Initiative: Reduces funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$204,998	\$0
	\$204,998	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>		

**Residential Treatment Facilities Assessment 0978**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$38,644)	\$0
	(\$38,644)	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>		

**Riverview Psychiatric Center 0105**

Initiative: Transfers positions and adjusts funding based on the correct allocation of positions.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$102,468
	\$0	\$102,468
<b>GENERAL FUND TOTAL</b>		

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$67,062)
	\$0	(\$67,062)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>		

**Riverview Psychiatric Center 0105**

Initiative: Adjusts funding to reflect correct reimbursements to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center from MaineCare and to ensure that sufficient resources are available to provide the appropriate level of General Fund match.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$325,844)
	\$0	(\$325,844)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>		

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	(\$182,335)	\$1,808,187
<b>FEDERAL EXPENDITURES FUND</b>	(\$219,606)	(\$291,173)
<b>OTHER SPECIAL REVENUE FUNDS</b>	(\$493,213)	(\$5,853,644)
	(\$895,154)	(\$4,336,630)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>		

**Sec. A-17. Appropriations and allocations.**

The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

**Bureau of Family Independence - Regional 0453**

Initiative: Reallocates 50% of the cost of 15 limited-period Customer Service Representative Associate II positions from the Federal Expenditures Fund in the Bureau of Medical Services program to the Other Special Revenue Funds in the Bureau of Family Independence - Regional program.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$305,431
All Other	\$0	\$41,453
	\$0	\$346,884
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>		

**Bureau of Family Independence - Regional 0453**

Initiative: Transfers one Customer Representative Associate II - Human Services position and related All Other from 50% General Fund and 50% Other Special Revenue Funds in the Bureau of Family Independence - Regional program to 50% General Fund and 50% Other Special Revenue Funds in the Office for Family Independence program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$20,845)
All Other	\$0	(\$1,803)
	\$0	(\$22,648)
<b>GENERAL FUND TOTAL</b>		

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$20,846)
All Other	\$0	(\$1,803)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$22,649)

**Bureau of Medical Services 0129**

Initiative: Transfers funding for consulting services from the Bureau of Medical Services program to the Division of Licensing and Regulatory Services program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$114,312)
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	(\$114,312)

**Bureau of Medical Services 0129**

Initiative: Reallocates 50% of the cost of 2 Auditor II positions and related All Other funding from the Bureau of Medical Services program, Federal Expenditures Fund to the Office of Management and Budget program, Other Special Revenue Funds.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$66,388)
All Other	\$0	(\$3,903)
	<hr/>	<hr/>
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$70,291)

**Bureau of Medical Services 0129**

Initiative: Reallocates 50% of the cost of 15 limited-period Customer Service Representative Associate II positions from the Federal Expenditures Fund in the Bureau of Medical Services program to the Other Special Revenue Funds in the Bureau of Family Independence - Regional program.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$305,431)
All Other	\$0	(\$41,453)
	<hr/>	<hr/>
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$346,884)

**Bureau of Medical Services 0129**

Initiative: Reallocates 12.5% of the cost of one Social Services Program Specialist I position from the Federal Expenditures Fund in the Bureau of Medical Services program to the General Fund in the Office of Elder Services Central Office program and reduces All Other to fund the reallocation.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$7,177)	(\$7,463)
	<hr/>	<hr/>
FEDERAL EXPENDITURES FUND TOTAL	(\$7,177)	(\$7,463)

**Bureau of Medical Services 0129**

Initiative: Provides funding to allow staff time spent on the State Children's Health Insurance Program to be charged to the appropriate funding source.

<b>FEDERAL BLOCK GRANT FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$200,000
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FEDERAL BLOCK GRANT FUND TOTAL	\$0	\$200,000

**Bureau of Medical Services 0129**

Initiative: Transfers funding for translation and interpretation services from the Medical Care - Payment to Providers program to the Bureau of Medical Services program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$213,000
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GENERAL FUND TOTAL	\$0	\$213,000

**FEDERAL EXPENDITURES FUND**

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$639,000
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FEDERAL EXPENDITURES FUND TOTAL	\$0	\$639,000

**Bureau of Medical Services 0129**

Initiative: Transfers funding for the patient-centered medical home incentive payment program from the Medical Care - Payment to Providers program to the Bureau of Medical Services program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$611,797	\$646,920

GENERAL FUND TOTAL	\$611,797	\$646,920
<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$1,059,780	\$1,114,365
FEDERAL EXPENDITURES FUND TOTAL	\$1,059,780	\$1,114,365

**Bureau of Medical Services 0129**

Initiative: Transfers one Office Assistant II position funded 50% General Fund and 50% Federal Expenditures Fund from the Bureau of Medical Services program to the Office for Family Independence program, funded 50% General Fund and 50% Other Special Revenue Funds and adjusts All Other for related overhead costs.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$27,209)
All Other	\$0	(\$870)
GENERAL FUND TOTAL	\$0	(\$28,079)
<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$27,213)
All Other	\$0	(\$1,646)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$28,859)

**Dental Disease Prevention 0486**

Initiative: Transfers one Health Program Manager position and one Public Health Educator III position from the Federal Block Grant Fund in the Dental Disease Prevention program to the Federal Expenditures Fund in the Health - Bureau of program.

<b>FEDERAL BLOCK GRANT FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(2.000)
Personal Services	\$0	(\$152,791)
All Other	\$0	(\$7,085)
FEDERAL BLOCK GRANT FUND TOTAL	\$0	(\$159,876)

**Division of Data, Research and Vital Statistics Z037**

Initiative: Transfers one Planning and Research Assistant position and related All Other from the Health - Bureau of program to the Division of Data, Research and Vital Statistics program.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$51,335
All Other	\$0	\$4,028
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$55,363

**Division of Data, Research and Vital Statistics Z037**

Initiative: Continues one limited-period Planning and Research Associate I position originally established by financial order with an end date of June 15, 2013 and provides related All Other funding.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$62,436
All Other	\$0	\$1,725
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$64,161

**Division of Licensing and Regulatory Services Z036**

Initiative: Transfers funding for consulting services from the Bureau of Medical Services program to the Division of Licensing and Regulatory Services program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$114,312
GENERAL FUND TOTAL	\$0	\$114,312

**Division of Licensing and Regulatory Services Z036**

Initiative: Provides funding for a new grant award for the statewide program for national and state background checks for direct patient access employees of long-term care facilities and providers.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$625,000
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$625,000

**Division of Licensing and Regulatory Services Z036**

Initiative: Provides funding for travel and general operations.

GENERAL FUND	2011-12	2012-13
All Other	\$382,710	\$765,420
<b>GENERAL FUND TOTAL</b>	<b>\$382,710</b>	<b>\$765,420</b>

**Division of Purchased Services Z035**

Initiative: Transfers one Procurement Contract Specialist position and related All Other from 100% General Fund in the Health - Bureau of program to 66% General Fund and 34% Other Special Revenue Funds in the Division of Purchased Services program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$36,367
All Other	\$0	\$1,444
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$37,811</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	\$18,732
All Other	\$0	\$746
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$19,478</b>

**Drinking Water Enforcement 0728**

Initiative: Transfers one Environmental Specialist III position and one Assistant Environmental Engineer position and related All Other from the Other Special Revenue Funds in the Drinking Water Enforcement program to the Federal Expenditures Fund in the Health - Bureau of program.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(2.000)
Personal Services	\$0	(\$140,649)
All Other	\$0	(\$8,498)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$149,147)</b>

**FHM - Bureau of Health 0953**

Initiative: Reduces funding through salary and benefit savings.

FUND FOR A HEALTHY MAINE	2011-12	2012-13
Personal Services	(\$154,000)	(\$48,000)
<b>FUND FOR A HEALTHY MAINE TOTAL</b>	<b>(\$154,000)</b>	<b>(\$48,000)</b>

**Food Supplement Administration Z019**

Initiative: Transfers funding for the Supplemental Nutrition Assistant Program nutrition education grant from the Health - Bureau of program to the Food Supplement Administration program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	\$4,557,844
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$4,557,844</b>

**Food Supplement Administration Z019**

Initiative: Continues one limited-period Family Independence Unit Supervisor position originally established by Financial Order 00674 F12. This position will end September 30, 2013.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$69,396
All Other	\$0	\$2,740
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$72,136</b>

**General Assistance - Reimbursement to Cities and Towns 0130**

Initiative: Provides funding for general assistance benefits.

GENERAL FUND	2011-12	2012-13
All Other	\$3,991,196	\$4,297,699*\$0
<b>GENERAL FUND TOTAL</b>	<b>\$3,991,196</b>	<b>\$4,297,699*\$0</b>

**General Assistance - Reimbursement to Cities and Towns 0130**

Initiative: Provides funding in the General Assistance - Reimbursement to Cities and Towns program to bring allocations into line with anticipated resources.

\*Disapproved pursuant to exercise of line-item veto (4/14/12)

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$449,846*\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$449,846*\$0

**General Assistance - Reimbursement to Cities and Towns 0130**

Initiative: Allocates funds for 7 limited-period Family Independence Specialist positions in the general assistance program and for other costs of the pilot program to maximize and expedite the award of federal Supplemental Security Income program benefits for recipients of general assistance and to identify and assist veterans who receive assistance through programs administered by the Office for Family Independence who may be eligible for federal Department of Veterans Affairs cash or medical assistance to access those benefits. These positions are established through June 15, 2014. This initiative is estimated to generate \$1,057,903 in 2012-13 in additional dedicated revenue for the general assistance program. Any dedicated revenue in addition to this estimated level must be used to offset the savings target of the general assistance working group established in this Act.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	\$469,104*\$0
All Other	\$0	\$976,874*\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$1,445,978*\$0

**Health - Bureau of 0143**

Initiative: Transfers one Procurement Contract Specialist position and related All Other from 100% General Fund in the Health - Bureau of program to 66% General Fund and 34% Other Special Revenue Funds in the Division of Purchased Services program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$55,099)
All Other	\$0	(\$2,188)
GENERAL FUND TOTAL	\$0	(\$57,287)

**Health - Bureau of 0143**

\*Disapproved pursuant to exercise of line-item veto (4/14/12)

Initiative: Transfers funding for the Supplemental Nutrition Assistant Program nutrition education grant from the Health - Bureau of program to the Food Supplement Administration program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$4,557,844)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$4,557,844)

**Health - Bureau of 0143**

Initiative: Transfers one Planning and Research Assistant position and related All Other from the Health - Bureau of program to the Division of Data, Research and Vital Statistics program.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$51,335)
All Other	\$0	(\$4,028)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$55,363)

**Health - Bureau of 0143**

Initiative: Transfers one Public Health Nurse Consultant position and related All Other from the Federal Block Grant Fund in the Tuberculosis Control Program to the Federal Expenditures Fund in the Health - Bureau of program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$89,769
All Other	\$0	\$4,029
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$93,798

**Health - Bureau of 0143**

Initiative: Transfers one Environmental Specialist III position and one Assistant Environmental Engineer position and related All Other from the Other Special Revenue Funds in the Drinking Water Enforcement program to the Federal Expenditures Fund in the Health - Bureau of program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	2.000
Personal Services	\$0	\$140,649
All Other	\$0	\$11,966
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$152,615</b>

**Health - Bureau of 0143**

Initiative: Transfers one Health Program Manager position and one Public Health Educator III position from the Federal Block Grant Fund in the Dental Disease Prevention program to the Federal Expenditures Fund in the Health - Bureau of program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	2.000
Personal Services	\$0	\$152,791
All Other	\$0	\$8,056
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$160,847</b>

**Health - Bureau of 0143**

Initiative: Transfers one Epidemiologist position and related All Other from the Federal Block Grant Fund to the Federal Expenditures Fund and reallocates 50% of its cost from the Federal Block Grant Fund to the Federal Expenditures Fund in the Health - Bureau of program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$37,561
All Other	\$0	\$2,015
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$39,576</b>

**FEDERAL BLOCK GRANT FUND**

FEDERAL BLOCK GRANT FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$37,561)
All Other	\$0	(\$1,692)

FEDERAL BLOCK GRANT FUND TOTAL	\$0	(\$39,253)
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**Health - Bureau of 0143**

Initiative: Transfers one Senior Health Program Manager position from 100% Federal Block Grant Fund in the Risk Reduction program to 100% Federal Expenditures Fund in the Health - Bureau of program and adjusts related All Other funding.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$90,478
All Other	\$0	\$6,538
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$97,016</b>

**Health - Bureau of 0143**

Initiative: Transfers one Office Associate II position and related All Other from the Federal Block Grant Fund in the Tuberculosis Control Program to the Federal Expenditures Fund in the Health - Bureau of program and reallocates 55% of the cost from the Federal Block Grant Fund in the Tuberculosis Control Program to the Federal Expenditures Fund in the Health - Bureau of program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$29,274
All Other	\$0	\$2,215
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$31,489</b>

**Health - Bureau of 0143**

Initiative: Reallocates 50% of the cost of one Planning and Research Associate I position and related All Other from the Federal Expenditures Fund to the Other Special Revenue Funds in the Health - Bureau of program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	(\$30,316)
All Other	\$0	(\$1,095)

FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$31,411)
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$30,316
All Other	\$0	\$2,015
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$32,331

**Health - Bureau of 0143**

Initiative: Transfers one Comprehensive Health Planner II position and related All Other from the Federal Block Grant Fund in the Risk Reduction program to the Federal Expenditures Fund in the Health - Bureau of program and reallocates the cost from 100% Federal Block Grant Fund in the Risk Reduction program to 65% Federal Expenditures Fund and 35% Other Special Revenue Funds in the Health - Bureau of program.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$49,072
All Other	\$0	\$2,619
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$51,691
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$26,425
All Other	\$0	\$1,410
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$27,835
<b>FEDERAL BLOCK GRANT FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$18,872)
FEDERAL BLOCK GRANT FUND TOTAL	\$0	(\$18,872)

**Health - Bureau of 0143**

Initiative: Reallocates 10% of the cost of one Office Associate II position and related All Other from the

Federal Expenditures Fund to the Other Special Revenue Funds in the Health - Bureau of program.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$5,113)
All Other	\$0	(\$402)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$5,515)
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$5,113
All Other	\$0	\$402
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$5,515

**Health - Bureau of 0143**

Initiative: Transfers one Comprehensive Health Planner II position and related All Other from the Federal Block Grant Fund to the Federal Expenditures Fund in the Health - Bureau of program and reallocates its costs to 75% Federal Expenditures Fund in the Health - Bureau of program and 25% Federal Block Grant Fund in the Maternal and Child Health program.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$56,343
All Other	\$0	\$3,022
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$59,365
<b>FEDERAL BLOCK GRANT FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$75,121)
All Other	\$0	(\$2,702)
FEDERAL BLOCK GRANT FUND TOTAL	\$0	(\$77,823)

**Health - Bureau of 0143**

Initiative: Reallocates the cost of one Public Health Physician position and related All Other from 20% Federal Expenditures Fund and 80% Other Special

Revenue Funds to 60% Federal Expenditures Fund and 40% Other Special Revenue Funds in the same program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$51,631
All Other	\$0	\$2,418

FEDERAL EXPENDITURES FUND TOTAL	\$0	\$54,049
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OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	(\$51,631)
All Other	\$0	(\$2,418)

OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$54,049)
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**Health - Bureau of 0143**

Initiative: Transfers one Office Associate I position and related All Other from the Plumbing - Control Over program to the Health - Bureau of program and reallocates 50% of its cost from the Plumbing - Control Over program to the Health - Bureau of program.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$50,843
All Other	\$0	\$2,015

OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$52,858
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**Health - Bureau of 0143**

Initiative: Reallocates 50% of the cost of one Epidemiologist position and related All Other from Other Special Revenue Funds to the Federal Expenditures Fund in the same program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$37,692
All Other	\$0	\$2,015

FEDERAL EXPENDITURES FUND TOTAL	\$0	\$39,707
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**OTHER SPECIAL REVENUE FUNDS**

	2011-12	2012-13
Personal Services	\$0	(\$37,692)
All Other	\$0	(\$1,853)

OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$39,545)
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**Health - Bureau of 0143**

Initiative: Transfers and reallocates 25% of the cost of one Office Specialist Manager position and related All Other from the Federal Block Grant Fund in the Tuberculosis Control Program to the Federal Expenditures Fund in the Health - Bureau of program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$16,493
All Other	\$0	\$1,008

FEDERAL EXPENDITURES FUND TOTAL	\$0	\$17,501
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**Health - Bureau of 0143**

Initiative: Reallocates 50% of the cost of one Office Associate I position and related All Other from the Federal Expenditures Fund in the Health - Bureau of program to the Federal Block Grant Fund in the Special Children's Services program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	(\$24,830)
All Other	\$0	(\$2,015)

FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$26,845)
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**Health - Bureau of 0143**

Initiative: Continues one Public Service Manager II position that was originally established by financial order and provides related All Other funding. The new legislative head count is offset by the elimination of one Office Assistant II position in the Federal Block Grant Fund in the same program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$37,396	\$88,149
All Other	\$0	\$2,189

FEDERAL EXPENDITURES FUND TOTAL	\$37,396	\$90,338
<b>FEDERAL BLOCK GRANT FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	(\$19,901)	(\$46,919)
FEDERAL BLOCK GRANT FUND TOTAL	(\$19,901)	(\$46,919)

**Health - Bureau of 0143**

Initiative: Continues one Planning and Research Associate II position originally established by financial order and provides related All Other funding. The new legislative head count is offset by the elimination of one Public Health Educator III position in the Federal Expenditures Fund in the same program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$64,183
All Other	\$0	\$2,189
GENERAL FUND TOTAL	\$0	\$66,372

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1,000)
Personal Services	\$0	(\$66,392)
All Other	\$0	(\$2,189)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$68,581)

**Long Term Care - Human Services 0420**

Initiative: Transfers funding from the Medical Care - Payment to Providers program to the Long Term Care - Human Services program based on the unbundling of rates as required by the Maine Integrated Health Management Solution system.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$15,517	\$15,517
GENERAL FUND TOTAL	\$15,517	\$15,517

**Maternal and Child Health 0191**

Initiative: Provides funding for new federal grant awards.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$6,373,261
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$6,373,261

**Maternal and Child Health 0191**

Initiative: Transfers one Comprehensive Health Planner II position and related All Other from the Federal Block Grant Fund to the Federal Expenditures Fund in the Health - Bureau of program and reallocates its costs to 75% Federal Expenditures Fund in the Health - Bureau of program and 25% Federal Block Grant Fund in the Maternal and Child Health program.

<b>FEDERAL BLOCK GRANT FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$18,778
All Other	\$0	\$1,008
FEDERAL BLOCK GRANT FUND TOTAL	\$0	\$19,786

**Maternal and Child Health 0191**

Initiative: Reorganizes one Health Program Manager position to a Public Service Manager I position and provides All Other funding for STA-CAP expenses.

<b>FEDERAL BLOCK GRANT FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$7,936
All Other	\$0	\$100
FEDERAL BLOCK GRANT FUND TOTAL	\$0	\$8,036

**Medical Care - Payments to Providers 0147**

Initiative: Transfers funding for translation and interpretation services from the Medical Care - Payment to Providers program to the Bureau of Medical Services program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$213,000)
GENERAL FUND TOTAL	\$0	(\$213,000)

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$639,000)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$639,000)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Transfers funding for the patient-centered medical home incentive payment program from the Medical Care - Payment to Providers program to the Bureau of Medical Services program.

GENERAL FUND	2011-12	2012-13
All Other	(\$611,797)	(\$646,920)
<b>GENERAL FUND TOTAL</b>	<b>(\$611,797)</b>	<b>(\$646,920)</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$1,059,780)	(\$1,114,365)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$1,059,780)</b>	<b>(\$1,114,365)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Transfers funding from the Medical Care - Payment to Providers program to the Long Term Care - Human Services program based on the unbundling of rates as required by the Maine Integrated Health Management Solution system.

GENERAL FUND	2011-12	2012-13
All Other	(\$15,517)	(\$15,517)
<b>GENERAL FUND TOTAL</b>	<b>(\$15,517)</b>	<b>(\$15,517)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$290,945)	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$290,945)</b>	<b>\$0</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$1,214,669)	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$1,214,669)</b>	<b>\$0</b>

**Nursing Facilities 0148**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$236,062)	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$236,062)</b>	<b>\$0</b>

**Nursing Facilities 0148**

Initiative: Reduces funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$224,754)	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$224,754)</b>	<b>\$0</b>

**Nursing Facilities 0148**

Initiative: Adjusts funding to reflect allocations for MaineCare matching funds in the correct account.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$219,606	\$291,173
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$219,606</b>	<b>\$291,173</b>

**Office for Family Independence Z020**

Initiative: Transfers one Community Services Manager position and reallocates the cost from 50% General Fund and 50% Other Special Revenue Funds in the Office for Family Independence program to 60% General Fund and 40% Other Special Revenue Funds

in the Office of Management and Budget program and adjusts related All Other funding.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$52,610)
All Other	\$0	(\$1,851)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$54,461)</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>		
Personal Services	\$0	(\$52,606)
All Other	\$0	(\$1,851)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$54,457)</b>

**Office for Family Independence Z020**

Initiative: Provides funding for food supplement bonus money.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$900,000	\$900,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$900,000</b>	<b>\$900,000</b>

**Office for Family Independence Z020**

Initiative: Transfers one Customer Representative Associate II - Human Services position and related All Other from 50% General Fund and 50% Other Special Revenue Funds in the Bureau of Family Independence - Regional program to 50% General Fund and 50% Other Special Revenue Funds in the Office for Family Independence program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$20,845
All Other	\$0	\$1,803
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$22,648</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>		
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$20,846
All Other	\$0	\$1,965

OTHER SPECIAL	\$0	\$22,811
<b>REVENUE FUNDS TOTAL</b>		

**Office for Family Independence Z020**

Initiative: Reallocates the cost of all positions in the OMB Division of Regional Business Operations program from 55% General Fund and 45% Other Special Revenue Funds to 64% General Fund and 36% Other Special Revenue Funds. The position detail is on file in the Bureau of the Budget. The additional General Fund Personal Services cost will be offset by reducing All Other in the Office for Family Independence program. These adjustments to 2 of the department's cost-allocated programs are intended to ensure that sufficient funds are available for the required state match for the federally approved cost allocation plan for these programs.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$837,692)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$837,692)</b>

**Office for Family Independence Z020**

Initiative: Transfers one Office Assistant II position funded 50% General Fund and 50% Federal Expenditures Fund from the Bureau of Medical Services program to the Office for Family Independence program, funded 50% General Fund and 50% Other Special Revenue Funds and adjusts All Other for related overhead costs.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$27,209
All Other	\$0	\$870
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$28,079</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$27,213
All Other	\$0	\$1,646
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$28,859</b>

**Office for Family Independence Z020**

Initiative: Continues one limited-period Social Services Program Specialist II position originally estab-

lished by Financial Order 00673 F12. This position ends August 17, 2013.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$72,027
All Other	\$0	\$2,740
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$74,767</b>

**Office of Elder Services Central Office 0140**

Initiative: Continues one limited-period Public Service Coordinator I position originally established by financial order until March 19, 2016 and provides All Other for a new grant award from the federal Centers for Medicare and Medicaid Services.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$96,030
All Other	\$0	\$478,856
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$574,886</b>

**Office of Elder Services Central Office 0140**

Initiative: Reallocates 12.5% of the cost of one Social Services Program Specialist I position from the Federal Expenditures Fund in the Bureau of Medical Services program to the General Fund in the Office of Elder Services Central Office program and reduces All Other to fund the reallocation.

GENERAL FUND	2011-12	2012-13
Personal Services	\$7,180	\$7,462
All Other	(\$7,180)	(\$7,462)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	(\$3)	\$1
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$3)</b>	<b>\$1</b>

**Office of Elder Services Central Office 0140**

Initiative: Continues one limited-period Nursing Education Consultant position originally established by financial order and provides related All Other funding. This position will end on September 29, 2013.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$81,154
All Other	\$0	\$658,000
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$739,154</b>

**Office of Elder Services Central Office 0140**

Initiative: Provides funding to increase the hours of a part-time Legal Services Consultant position to full time and for related All Other costs.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNCIL	0.000	0.500
Personal Services	\$0	\$32,763
All Other	\$0	\$1,277
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$34,040</b>

**Office of Management and Budget 0142**

Initiative: Transfers funding from the Office of Management and Budget program to the Forensic Services program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$70,914)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$70,914)</b>

**Office of Management and Budget 0142**

Initiative: Transfers one Community Services Manager position and reallocates the cost from 50% General Fund and 50% Other Special Revenue Funds in the Office for Family Independence program to 60% General Fund and 40% Other Special Revenue Funds in the Office of Management and Budget program and adjusts related All Other funding.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNCIL	0.000	1.000
Personal Services	\$0	\$63,130
All Other	\$0	\$1,372
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$64,502</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13

Personal Services	\$0	\$42,086
All Other	\$0	\$1,784
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$43,870

**Office of Management and Budget 0142**

Initiative: Reallocates the cost of 3 Public Service Coordinator I positions and one Management Analyst II position and related All Other from 60% General Fund and 40% Other Special Revenue Funds to 50% General Fund and 50% Other Special Revenue Funds in the same program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$33,744)
All Other	\$0	(\$875)
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	(\$34,619)

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$33,744
All Other	\$0	\$875
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$34,619

**Office of Management and Budget 0142**

Initiative: Continues one limited-period Public Service Executive II position originally established by financial order and provides related All Other funding to continue the work necessary to coordinate statewide health information technology and health information exchange policy. This position will end on February 7, 2014.

<b>FEDERAL EXPENDITURES FUND ARRA</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$118,879
All Other	\$0	\$4,324
	<hr/>	<hr/>
FEDERAL EXPENDITURES FUND ARRA TOTAL	\$0	\$123,203

**Office of Management and Budget 0142**

Initiative: Reallocates 50% of the cost of 2 Auditor II positions and related All Other funding from the Bureau of Medical Services program, Federal Expenditures Fund to the Office of Management and Budget program, Other Special Revenue Funds.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$66,388
All Other	\$0	\$3,903
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$70,291

**OMB Division of Regional Business Operations 0196**

Initiative: Reallocates the cost of all positions in the OMB Division of Regional Business Operations program from 55% General Fund and 45% Other Special Revenue Funds to 64% General Fund and 36% Other Special Revenue Funds. The position detail is on file in the Bureau of the Budget. The additional General Fund Personal Services cost will be offset by reducing All Other in the Office for Family Independence program. These adjustments to 2 of the department's cost-allocated programs are intended to ensure that sufficient funds are available for the required state match for the federally approved cost allocation plan for these programs.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$837,692
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	\$837,692

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$837,692)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$837,692)

**Plumbing - Control Over 0205**

Initiative: Transfers one Office Associate I position and related All Other from the Plumbing - Control Over program to the Health - Bureau of program and reallocates 50% of its cost from the Plumbing - Control Over program to the Health - Bureau of program.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$50,843)
All Other	\$0	(\$2,015)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$52,858)

**Risk Reduction 0489**

Initiative: Transfers one Senior Health Program Manager position from 100% Federal Block Grant Fund in the Risk Reduction program to 100% Federal Expenditures Fund in the Health - Bureau of program and adjusts related All Other funding.

FEDERAL BLOCK GRANT FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$90,478)
All Other	\$0	(\$3,250)
<b>FEDERAL BLOCK GRANT FUND TOTAL</b>	<b>\$0</b>	<b>(\$93,728)</b>

**Risk Reduction 0489**

Initiative: Transfers one Comprehensive Health Planner II position and related All Other from the Federal Block Grant Fund in the Risk Reduction program to the Federal Expenditures Fund in the Health - Bureau of program and reallocates the cost from 100% Federal Block Grant Fund in the Risk Reduction program to 65% Federal Expenditures Fund and 35% Other Special Revenue Funds in the Health - Bureau of program.

FEDERAL BLOCK GRANT FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$56,625)
All Other	\$0	(\$2,927)
<b>FEDERAL BLOCK GRANT FUND TOTAL</b>	<b>\$0</b>	<b>(\$59,552)</b>

**Special Children's Services 0204**

Initiative: Reallocates 50% of the cost of one Office Associate I position and related All Other from the Federal Expenditures Fund in the Health - Bureau of program to the Federal Block Grant Fund in the Special Children's Services program.

FEDERAL BLOCK GRANT FUND	2011-12	2012-13
Personal Services	\$0	\$24,830
All Other	\$0	\$2,015
<b>FEDERAL BLOCK GRANT FUND TOTAL</b>	<b>\$0</b>	<b>\$26,845</b>

**State-funded Foster Care/Adoption Assistance 0139**

Initiative: Provides funding for a new grant award for preventive intervention, foster care placement, reunification and adoption assistance. The initiative also reduces funding in the Personal Services line category to bring the allocation to zero.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	(\$220)	(\$231)
All Other	\$495,620	\$1,176,147
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$495,400</b>	<b>\$1,175,916</b>

**Tuberculosis Control Program 0497**

Initiative: Transfers one Public Health Nurse Consultant position and related All Other from the Federal Block Grant Fund in the Tuberculosis Control Program to the Federal Expenditures Fund in the Health - Bureau of program.

FEDERAL BLOCK GRANT FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$89,769)
All Other	\$0	(\$3,706)
<b>FEDERAL BLOCK GRANT FUND TOTAL</b>	<b>\$0</b>	<b>(\$93,475)</b>

**Tuberculosis Control Program 0497**

Initiative: Transfers one Office Associate II position and related All Other from the Federal Block Grant Fund in the Tuberculosis Control Program to the Federal Expenditures Fund in the Health - Bureau of program and reallocates 55% of the cost from the Federal Block Grant Fund in the Tuberculosis Control Program to the Federal Expenditures Fund in the Health - Bureau of program.

FEDERAL BLOCK GRANT FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$29,274)
All Other	\$0	(\$1,786)
<b>FEDERAL BLOCK GRANT FUND TOTAL</b>	<b>\$0</b>	<b>(\$31,060)</b>

**Tuberculosis Control Program 0497**

Initiative: Transfers and reallocates 25% of the cost of one Office Specialist Manager position and related All Other from the Federal Block Grant Fund in the Tuberculosis Control Program to the Federal Expenditures Fund in the Health - Bureau of program.

FEDERAL BLOCK GRANT FUND	2011-12	2012-13
Personal Services	\$0	(\$16,493)
All Other	\$0	(\$777)
<b>FEDERAL BLOCK GRANT FUND TOTAL</b>	<b>\$0</b>	<b>(\$17,270)</b>

**Wild Mushroom Harvesting Fund Z128**

Initiative: Provides funding for program operations.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$5,780
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$5,780</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$4,373,906</b>	<b>\$5,014,523</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$745,222</b>	<b>\$10,262,477</b>
<b>FUND FOR A HEALTHY MAINE</b>	<b>(\$154,000)</b>	<b>(\$48,000)</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>(\$1,066,430)</b>	<b>\$2,340,719</b>
<b>FEDERAL BLOCK GRANT FUND</b>	<b>(\$19,901)</b>	<b>(\$383,161)</b>
<b>FEDERAL EXPENDITURES FUND ARRA</b>	<b>\$0</b>	<b>\$123,203</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$3,878,797</b>	<b>\$17,309,761</b>

**Sec. A-18. Appropriations and allocations.**  
The following appropriations and allocations are made.

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

**Maine Commission on Indigent Legal Services Z112**

Initiative: Provides funding for indigent legal services, including attorney fees, private investigators and expert witness fees.

GENERAL FUND	2011-12	2012-13
All Other	\$750,000	\$0
<b>GENERAL FUND TOTAL</b>	<b>\$750,000</b>	<b>\$0</b>

**Maine Commission on Indigent Legal Services Z112**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$90,000	\$90,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$90,000</b>	<b>\$90,000</b>

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$750,000</b>	<b>\$0</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$90,000</b>	<b>\$90,000</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$840,000</b>	<b>\$90,000</b>

**Sec. A-19. Appropriations and allocations.**  
The following appropriations and allocations are made.

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

**Enforcement Operations - Inland Fisheries and Wildlife 0537**

Initiative: Transfers one Office Associate II position from the Licensing Services - Inland Fisheries and Wildlife program to the Enforcement Operations - Inland Fisheries and Wildlife program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$53,657
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$53,657</b>

**Fisheries and Hatcheries Operations 0535**

Initiative: Reorganizes 2 seasonal Fish Culturist positions to 2 full-time Fish Culturist positions and reallocates the cost from 100% General Fund to 50% General Fund and 50% Federal Expenditures Fund in the same program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	2.000
POSITIONS - FTE COUNT	0.000	(1.154)
Personal Services	\$0	(\$7,492)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$7,492)</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$48,963
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$48,963</b>

**Fisheries and Hatcheries Operations 0535**

Initiative: Reorganizes one Biologist III position to a Biologist II position and reallocates the cost from 70% Federal Expenditures Fund and 30% General Fund to 35% Federal Expenditures Fund and 15% General Fund in the Resource Management Services - Inland Fisheries and Wildlife program and 35% Federal Expenditures Fund and 15% General Fund in the Fisheries and Hatcheries Operations program. Reorganizes one Biologist III position to a Biologist II position and reallocates the cost from 100% General Fund to 15% General Fund and 35% Federal Expenditures Fund in the Resource Management Services - Inland Fisheries and Wildlife program and 35% Federal Expenditures Fund and 15% General Fund in the Fisheries and Hatcheries Operations program.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$51,343
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$51,343</b>

**Fisheries and Hatcheries Operations 0535**

Initiative: Reorganizes one Public Service Manager II position to a Biologist II position and reallocates the cost from 65% Federal Expenditures Fund and 35% General Fund to 35% Federal Expenditures Fund and

15% General Fund in the Fisheries and Hatcheries program and 35% Federal Expenditures Fund and 15% General Fund in the Resource Management Services - Inland Fisheries and Wildlife program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	(\$39,845)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$39,845)</b>

**Licensing Services - Inland Fisheries and Wildlife 0531**

Initiative: Transfers one Office Associate II position from the Licensing Services - Inland Fisheries and Wildlife program to the Enforcement Operations - Inland Fisheries and Wildlife program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$53,657)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$53,657)</b>

**Office of the Commissioner - Inland Fisheries and Wildlife 0529**

Initiative: Establishes one Public Service Coordinator II position in the Office of the Commissioner - Inland Fisheries and Wildlife program to serve as an assistant to the commissioner. Eliminates one Public Service Coordinator I position in the Public Information and Education, Division of program that was established in Public Law 2011, chapter 380 to deal with landowner relations.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$86,606
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$86,606</b>

**Public Information and Education, Division of 0729**

Initiative: Establishes one Public Service Coordinator II position in the Office of the Commissioner - Inland Fisheries and Wildlife program to serve as an assistant to the commissioner. Eliminates one Public Service Coordinator I position in the Public Information and Education, Division of program that was established in Public Law 2011, chapter 380 to deal with landowner relations.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$0

**Resource Management Services - Inland Fisheries and Wildlife 0534**

Initiative: Reorganizes one Biologist III position to a Biologist II position and reallocates the cost from 70% Federal Expenditures Fund and 30% General Fund to 35% Federal Expenditures Fund and 15% General Fund in the Resource Management Services - Inland Fisheries and Wildlife program and 35% Federal Expenditures Fund and 15% General Fund in the Fisheries and Hatcheries Operations program. Reorganizes one Biologist III position to a Biologist II position and reallocates the cost from 100% General Fund to 15% General Fund and 35% Federal Expenditures Fund in the Resource Management Services - Inland Fisheries and Wildlife program and 35% Federal Expenditures Fund and 15% General Fund in the Fisheries and Hatcheries Operations program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1,000)
GENERAL FUND TOTAL	\$0	\$0

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	(\$15,388)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$15,388)

**Resource Management Services - Inland Fisheries and Wildlife 0534**

Initiative: Reorganizes one Office Associate I position to a Biologist I position and reallocates the cost from 60% General Fund and 40% Federal Expenditures

Fund to 49.5% General Fund and 50.5% Federal Expenditures Fund in the same program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$10,740
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$10,740

**Resource Management Services - Inland Fisheries and Wildlife 0534**

Initiative: Reorganizes one Public Service Manager II position to a Biologist II position and reallocates the cost from 65% Federal Expenditures Fund and 35% General Fund to 35% Federal Expenditures Fund and 15% General Fund in the Fisheries and Hatcheries program and 35% Federal Expenditures Fund and 15% General Fund in the Resource Management Services - Inland Fisheries and Wildlife program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$24,647
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$24,647

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$7,492)
FEDERAL EXPENDITURES FUND	\$0	\$80,460
OTHER SPECIAL REVENUE FUNDS	\$0	\$86,606
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$159,574

**Sec. A-20. Appropriations and allocations.**

The following appropriations and allocations are made.

**JUDICIAL DEPARTMENT**

**Courts - Supreme, Superior and District 0063**

Initiative: Provides funding for the increase in contracted court security to provide entry screening in the courthouses.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$638,312

GENERAL FUND TOTAL	\$0	\$638,312
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**Courts - Supreme, Superior and District 0063**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$143,991)	(\$165,321)

OTHER SPECIAL REVENUE FUNDS TOTAL	(\$143,991)	(\$165,321)
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**Courts - Supreme, Superior and District 0063**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$63,900)	(\$63,900)

OTHER SPECIAL REVENUE FUNDS TOTAL	(\$63,900)	(\$63,900)
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**Courts - Supreme, Superior and District 0063**

Initiative: Adjusts funding to align allocations with projected available resources.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$186,500)	(\$186,500)

OTHER SPECIAL REVENUE FUNDS TOTAL	(\$186,500)	(\$186,500)
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**JUDICIAL DEPARTMENT**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
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GENERAL FUND	\$0	\$638,312
OTHER SPECIAL REVENUE FUNDS	(\$394,391)	(\$415,721)

DEPARTMENT TOTAL - ALL FUNDS	(\$394,391)	\$222,591
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**Sec. A-21. Appropriations and allocations.**  
The following appropriations and allocations are made.

**LABOR, DEPARTMENT OF**

**Administration - Bureau of Labor Standards 0158**

Initiative: Decreases funding to bring allocations in line with dedicated revenues and transfers.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$185)

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FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$185)
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**Administration - Bureau of Labor Standards 0158**

Initiative: Reduces funding to bring expenditures in line with anticipated federal grant awards.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$210,581)	(\$210,581)

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FEDERAL EXPENDITURES FUND TOTAL	(\$210,581)	(\$210,581)
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**Administration - Bureau of Labor Standards 0158**

Initiative: Transfers and reallocates the cost of 2 Statistician II positions from 100% in the Administration - Bureau Labor Standards program, Federal Expenditures Fund to 55% in the Safety Education and Training Programs program, Other Special Revenue Funds and 45% in the Administration - Bureau Labor Standards program, Federal Expenditures Fund. Also, reallocates 15% of the cost of one Planning and Research Associate II position and 45% of the cost of one Statistician III position from the Safety Education and Training Programs program, Other Special Revenue Funds to the Administration - Bureau Labor Standards program, Federal Expenditures Fund.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	(2,000)	(2,000)
Personal Services	(\$23,046)	(\$24,599)

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FEDERAL EXPENDITURES FUND TOTAL	(\$23,046)	(\$24,599)
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**Administration - Labor 0030**

Initiative: Reorganizes one Assistant to the Commissioner for Public Affairs position from range 29 to range 35 and one Office Associate II position to a Public Service Coordinator I position in the Administration - Labor program, transfers one Office Associate II position and one Customer Representative Associate I

- Employment position from the Safety Education and Training Programs program, Other Special Revenue Funds to the Administration - Labor program and re-allocates a portion of the cost of one Clerk IV position from the Safety Education and Training Programs program to the Administration - Labor program. Position details are on file in the Bureau of the Budget.

GENERAL FUND	2011-12	2012-13
Personal Services	\$12,808	\$20,416
<b>GENERAL FUND TOTAL</b>	<b>\$12,808</b>	<b>\$20,416</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	2.000	2.000
Personal Services	\$112,097	\$154,584
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$112,097</b>	<b>\$154,584</b>

**Administration - Labor 0030**

Initiative: Transfers 9 positions currently allocated in the General Fund, the Federal Expenditures Fund and Other Special Revenue Funds in the Administration - Labor program from the Federal Expenditures Fund to Other Special Revenue Funds. In addition, the portion of the positions' costs currently funded in the Federal Expenditures Fund is reallocated to Other Special Revenue Funds. The position allocation detail is on file in the Bureau of the Budget. Also adjusts All Other funding between several Other Special Revenue Funds and Federal Expenditures Fund programs related to implementing the federally approved indirect cost allocation plan.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(9.000)	(9.000)
Personal Services	(\$662,790)	(\$668,993)
All Other	(\$2,481,072)	(\$2,480,296)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$3,143,862)</b>	<b>(\$3,149,289)</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	9.000	9.000
Personal Services	\$662,790	\$668,993
All Other	\$2,114,084	\$2,114,189

OTHER SPECIAL	\$2,776,874	\$2,783,182
<b>REVENUE FUNDS TOTAL</b>		

**Administration - Labor 0030**

Initiative: Transfers funding for indirect costs from the Blind and Visually Impaired - Division for the program, the Rehabilitation Services program and the Employment Services Activity program to the Administration - Labor program.

GENERAL FUND	2011-12	2012-13
All Other	\$107,268	\$107,268
<b>GENERAL FUND TOTAL</b>	<b>\$107,268</b>	<b>\$107,268</b>

**Administration - Labor 0030**

Initiative: Provides funding for indirect costs to meet the required percentage of the federal indirect cost rate.

GENERAL FUND	2011-12	2012-13
All Other	\$16,796	\$16,796
<b>GENERAL FUND TOTAL</b>	<b>\$16,796</b>	<b>\$16,796</b>

**Administration - Labor 0030**

Initiative: Adjusts funding to recognize additional information technology management fees not currently budgeted and transfers funding for other information technology management fees from various Federal Expenditures Fund and Other Special Revenue Funds programs to the Administration - Labor program, Other Special Revenue Funds as part of the implementation of an indirect cost allocation plan.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$288,224	\$288,224
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$288,224</b>	<b>\$288,224</b>

**Blind and Visually Impaired - Division for the 0126**

Initiative: Transfers funding for indirect costs from the Blind and Visually Impaired - Division for the program, the Rehabilitation Services program and the Employment Services Activity program to the Administration - Labor program.

GENERAL FUND	2011-12	2012-13
All Other	(\$19,272)	(\$19,272)

GENERAL FUND TOTAL	(\$19,272)	(\$19,272)
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**Blind and Visually Impaired - Division for the 0126**

Initiative: Provides ongoing funds for one certified teacher of the visually impaired contracted position to provide direct services to children in the classroom.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$79,410
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$79,410</b>

**Blind and Visually Impaired - Division for the 0126**

Initiative: Provides ongoing funds for one Orientation and Mobility Specialist position and related All Other to provide instruction in safe and independent travel to children and adults.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$66,312
All Other	\$0	\$5,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$71,312</b>

**Blind and Visually Impaired - Division for the 0126**

Initiative: Allocates funds for one half-time Orientation and Mobility Specialist position to work with children and adults in the classroom and in the community providing instruction in safe and independent travel.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	0.500
Personal Services	\$0	\$37,657
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$37,657</b>

**Employment Security Services 0245**

Initiative: Decreases funding to bring allocations in line with dedicated revenues and transfers.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$24)	(\$113)

OTHER SPECIAL REVENUE FUNDS TOTAL	(\$24)	(\$113)
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**Employment Security Services 0245**

Initiative: Continues the following limited-period positions through June 8, 2013: 5 Claims Adjudicator positions, 10 Customer Representative Associate I Employment positions, 7 Customer Representative Specialist Benefits positions, 5 Hearings Examiner positions, 4 Office Assistant II positions and one Secretary Legal position. These positions were originally established by financial order and continued in Public Law 2011, chapter 380.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$1,647,365
All Other	\$0	\$22,404
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$1,669,769</b>

**Employment Security Services 0245**

Initiative: Continues 2 limited-period Office Associate II positions and 10 limited-period Customer Representative Associate I positions, established by Financial Order 006308 F1, through June 8, 2013.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$567,773
All Other	\$0	\$7,722
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$575,495</b>

**Employment Security Services 0245**

Initiative: Provides funding for payment of unemployment benefits.

EMPLOYMENT SECURITY TRUST FUND	2011-12	2012-13
All Other	\$0	\$76,171,120
<b>EMPLOYMENT SECURITY TRUST FUND TOTAL</b>	<b>\$0</b>	<b>\$76,171,120</b>

**Employment Security Services 0245**

Initiative: Transfers 9 positions currently allocated in the General Fund, the Federal Expenditures Fund and Other Special Revenue Funds in the Administration - Labor program from the Federal Expenditures Fund to

Other Special Revenue Funds. In addition, the portion of the positions' costs currently funded in the Federal Expenditures Fund is reallocated to Other Special Revenue Funds. The position allocation detail is on file in the Bureau of the Budget. Also adjusts All Other funding between several Other Special Revenue Funds and Federal Expenditures Fund programs related to implementing the federally approved indirect cost allocation plan.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$7,293)	(\$5,959)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$7,293)</b>	<b>(\$5,959)</b>

**Employment Security Services 0245**

Initiative: Adjusts funding to recognize additional information technology management fees not currently budgeted and transfers funding for other information technology management fees from various Federal Expenditures Fund and Other Special Revenue Funds programs to the Administration - Labor program, Other Special Revenue Funds as part of the implementation of an indirect cost allocation plan.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	(\$126,680)	(\$126,680)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$126,680)</b>	<b>(\$126,680)</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$305)	(\$244)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$305)</b>	<b>(\$244)</b>

**Employment Security Services 0245**

Initiative: Reallocates the cost of one Principal Economic Research Analyst position for one-time only from 100% Federal Expenditures Fund to 70% Federal Expenditures Fund and 30% Other Special Revenue Funds in the same program and provides funding for All Other costs related to technology and rent.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	(\$28,447)

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	\$28,447
All Other	\$0	\$43,021
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$71,468</b>

**Employment Services Activity 0852**

Initiative: Reduces the hours of one Program Manager Employment and Training position from 80 hours to 58 hours biweekly in the Employment Services Activity program to fund the cost of position reorganizations and reallocations in the Administration - Labor program.

GENERAL FUND	2011-12	2012-13
Personal Services	(\$12,808)	(\$21,640)
<b>GENERAL FUND TOTAL</b>	<b>(\$12,808)</b>	<b>(\$21,640)</b>

**Employment Services Activity 0852**

Initiative: Decreases funding to bring allocations in line with dedicated revenues and transfers.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$231)	(\$320)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$231)</b>	<b>(\$320)</b>

**Employment Services Activity 0852**

Initiative: Transfers 9 positions currently allocated in the General Fund, the Federal Expenditures Fund and Other Special Revenue Funds in the Administration - Labor program from the Federal Expenditures Fund to Other Special Revenue Funds. In addition, the portion of the positions' costs currently funded in the Federal Expenditures Fund is reallocated to Other Special Revenue Funds. The position allocation detail is on file in the Bureau of the Budget. Also adjusts All Other funding between several Other Special Revenue Funds and Federal Expenditures Fund programs related to implementing the federally approved indirect cost allocation plan.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
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All Other	(\$6,850)	(\$6,886)
	(\$6,850)	(\$6,886)
OTHER SPECIAL REVENUE FUNDS TOTAL		

**Employment Services Activity 0852**

Initiative: Transfers funding for indirect costs from Blind and Visually Impaired - Division for the program, the Rehabilitation Services program and the Employment Services Activity program to the Administration - Labor program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$45,092)	(\$45,092)
	(\$45,092)	(\$45,092)
GENERAL FUND TOTAL		

**Employment Services Activity 0852**

Initiative: Adjusts funding to recognize additional information technology management fees not currently budgeted and transfers funding for other information technology management fees from various Federal Expenditures Fund and Other Special Revenue Funds programs to the Administration - Labor program, Other Special Revenue Funds as part of the implementation of an indirect cost allocation plan.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$59,024)	(\$59,024)
	(\$59,024)	(\$59,024)
FEDERAL EXPENDITURES FUND TOTAL		

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$6,378)	(\$6,380)
	(\$6,378)	(\$6,380)
OTHER SPECIAL REVENUE FUNDS TOTAL		

<b>COMPETITIVE SKILLS SCHOLARSHIP FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$860)	(\$860)
	(\$860)	(\$860)
COMPETITIVE SKILLS SCHOLARSHIP FUND TOTAL		

**Labor Relations Board 0160**

Initiative: Provides funding to cover per diem payments to Maine Labor Relations Board members.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$2,000
	\$0	\$2,000
GENERAL FUND TOTAL		

**Regulation and Enforcement 0159**

Initiative: Decreases funding to bring allocations in line with dedicated revenues and transfers.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$191)	\$0
	(\$191)	\$0
FEDERAL EXPENDITURES FUND TOTAL		

**Regulation and Enforcement 0159**

Initiative: Transfers one Occupational Health Specialist position and one Occupational Safety Engineer position from the Safety Education and Training Programs program, Other Special Revenue Funds to the Regulation and Enforcement program, Federal Expenditures Fund. Reallocates 50% of the cost of one Occupational Health and Safety Program Supervisor position, one Office Associate II position and one Occupational Safety Engineer position and 40% of the cost of one Director of Industrial Safety position from the Safety Education and Training Programs program, Other Special Revenue Funds to the Regulation and Enforcement program, Federal Expenditures Fund and reduces All Other to align the budget with expected federal grant revenue.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	2,000	2,000
Personal Services	\$268,759	\$273,575
All Other	(\$118,076)	(\$118,076)
	\$150,683	\$155,499
FEDERAL EXPENDITURES FUND TOTAL		

**Regulation and Enforcement 0159**

Initiative: Transfers one Occupational Safety Engineer position from the Regulation and Enforcement program, Federal Expenditures Fund to the Safety Education and Training Programs program, Other Special Revenue Funds. Reallocates 50% of the cost of one Occupational Health Specialist position from the Regulation and Enforcement program, Federal Expenditures Fund to the Safety Education and Training Programs program, Other Special Revenue Funds.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	(\$103,984)	(\$106,648)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$103,984)</b>	<b>(\$106,648)</b>

**Regulation and Enforcement 0159**

Initiative: Reallocates the cost of one Director, Bureau of Labor Standards position, one Public Service Manager II position and one Office Specialist I position from 34.5% Administration - Bureau of Labor Standards program, General Fund and 5.5% Federal Expenditures Fund; and 9% Regulation and Enforcement program, Federal Expenditures Fund and 51% Safety Education and Training Programs program, Other Special Revenue Funds to 34.5% Administration - Bureau of Labor Standards, General Fund, 5.5% Federal Expenditures Fund, and 60% Safety Education and Training Programs program, Other Special Revenue Funds.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$24,162)	(\$23,760)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>(\$24,162)</b>	<b>(\$23,760)</b>

**Rehabilitation Services 0799**

Initiative: Decreases funding to bring allocations in line with dedicated revenues and transfers.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$167)	(\$231)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$167)</b>	<b>(\$231)</b>

**Rehabilitation Services 0799**

Initiative: Transfers 9 positions currently allocated in the General Fund, the Federal Expenditures Fund and Other Special Revenue Funds in the Administration - Labor program from the Federal Expenditures Fund to Other Special Revenue Funds. In addition, the portion of the positions' costs currently funded in the Federal Expenditures Fund is reallocated to Other Special Revenue Funds. The position allocation detail is on file in the Bureau of the Budget. Also adjusts All Other funding between several Other Special Revenue Funds and Federal Expenditures Fund programs re-

lated to implementing the federally approved indirect cost allocation plan.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$4,938)	(\$4,964)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$4,938)</b>	<b>(\$4,964)</b>

**Rehabilitation Services 0799**

Initiative: Transfers funding for indirect costs from Blind and Visually Impaired - Division for the program, the Rehabilitation Services program and the Employment Services Activity program to the Administration - Labor program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$42,904)	(\$42,904)
<b>GENERAL FUND TOTAL</b>	<b>(\$42,904)</b>	<b>(\$42,904)</b>

**Rehabilitation Services 0799**

Initiative: Adjusts funding to recognize additional information technology management fees not currently budgeted and transfers funding for other information technology management fees from various Federal Expenditures Fund and Other Special Revenue Funds programs to the Administration - Labor program, Other Special Revenue Funds as part of the implementation of an indirect cost allocation plan.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$429)	(\$430)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$429)</b>	<b>(\$430)</b>

**Safety Education and Training Programs 0161**

Initiative: Reorganizes one Assistant to the Commissioner for Public Affairs position from range 29 to range 35 and one Office Associate II position to a Public Service Coordinator I position in the Administration - Labor program, transfers one Office Associate II position and one Customer Representative Associate I - Employment position from the Safety Education and Training Programs program, Other Special Revenue Funds to the Administration - Labor program and reallocates a portion of the cost of one Clerk IV position from the Safety Education and Training Programs program to the Administration - Labor program. Position details are on file in the Bureau of the Budget.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	(2,000)	(2,000)
Personal Services	(\$110,792)	(\$115,528)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$110,792)	(\$115,528)

**Safety Education and Training Programs 0161**

Initiative: Reduces funding in order to align the budget with annual revenue collected.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$632,914)	(\$466,471)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$632,914)	(\$466,471)

**Safety Education and Training Programs 0161**

Initiative: Transfers one Occupational Health Specialist position and one Occupational Safety Engineer position from the Safety Education and Training Programs program, Other Special Revenue Funds to the Regulation and Enforcement program, Federal Expenditures Fund. Reallocates 50% of the cost of one Occupational Health and Safety Program Supervisor position, one Office Associate II position and one Occupational Safety Engineer position and 40% of the cost of one Director of Industrial Safety position from the Safety Education and Training Programs program, Other Special Revenue Funds to the Regulation and Enforcement program, Federal Expenditures Fund and reduces All Other to align the budget with expected federal grant revenue.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	(2,000)	(2,000)
Personal Services	(\$268,759)	(\$273,575)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$268,759)	(\$273,575)

**Safety Education and Training Programs 0161**

Initiative: Transfers and reallocates the cost of 2 Statistician II positions from 100% in the Administration - Bureau Labor Standards program, Federal Expenditures Fund to 55% in the Safety Education and Training Programs program, Other Special Revenue Funds and 45% in the Administration - Bureau Labor Standards program, Federal Expenditures Fund. Also,

reallocates 15% of the cost of one Planning and Research Associate II position and 45% of the cost of one Statistician III position from the Safety Education and Training Programs program, Other Special Revenue Funds to the Administration - Bureau Labor Standards program, Federal Expenditures Fund.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	2,000	2,000
Personal Services	\$23,046	\$24,599
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$23,046	\$24,599

**Safety Education and Training Programs 0161**

Initiative: Transfers one Occupational Safety Engineer position from the Regulation and Enforcement program, Federal Expenditures Fund to the Safety Education and Training Programs program, Other Special Revenue Funds. Reallocates 50% of the cost of one Occupational Health Specialist position from the Regulation and Enforcement program, Federal Expenditures Fund to the Safety Education and Training Programs program, Other Special Revenue Funds.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$103,984	\$106,648
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$103,984	\$106,648

**Safety Education and Training Programs 0161**

Initiative: Reallocates the cost of one Director, Bureau of Labor Standards position, one Public Service Manager II position and one Office Specialist I position from 34.5% Administration - Bureau of Labor Standards program, General Fund and 5.5% Federal Expenditures Fund; and 9% Regulation and Enforcement program, Federal Expenditures Fund and 51% Safety Education and Training Programs program, Other Special Revenue Funds to 34.5% Administration - Bureau of Labor Standards, General Fund, 5.5% Federal Expenditures Fund, and 60% Safety Education and Training Programs program, Other Special Revenue Funds.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$24,162	\$23,760

OTHER SPECIAL REVENUE FUNDS TOTAL	\$24,162	\$23,760
<b>LABOR, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$16,796	\$168,294
FEDERAL EXPENDITURES FUND	(\$3,540,847)	(\$1,290,793)
OTHER SPECIAL REVENUE FUNDS	\$2,289,307	\$2,571,364
EMPLOYMENT SECURITY TRUST FUND	\$0	\$76,171,120
COMPETITIVE SKILLS SCHOLARSHIP FUND	(\$860)	(\$860)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$1,235,604)</b>	<b>\$77,619,125</b>

**Sec. A-22. Appropriations and allocations.**  
The following appropriations and allocations are made.

**MARINE RESOURCES, DEPARTMENT OF**

**Bureau of Resource Management 0027**

Initiative: Reallocates the cost of one Office Associate I position from the Federal Expenditures Fund to Other Special Revenue Funds and adjusts the All Other in the same program.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$53,512)
All Other	\$0	(\$1,606)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$55,118)</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$53,512
All Other	\$0	(\$25,954)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$27,558</b>

**Bureau of Resource Management 0027**

Initiative: Transfers one vacant Marine Resources Scientist I position from the Bureau of Resource Man-

agement program in the Department of Marine Resources to the Financial and Personnel Services - Division of program in the Department of Administrative and Financial Services and reorganizes the position to one Senior Staff Accountant position.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	(\$17,684)	(\$61,798)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$17,684)</b>	<b>(\$61,798)</b>

**Bureau of Resource Management 0027**

Initiative: Transfers one Marine Resource Scientist I position funded 75% General Fund and 25% Federal Expenditures Fund to 100% Other Special Revenue Funds and transfers one Marine Resource Scientist I position funded 100% Other Special Revenue Funds to 70% General Fund and 30% Federal Expenditures Fund in the same program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$3,918	\$2,096
All Other	(\$3,918)	(\$2,096)

<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>
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<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	(1,000)	(1,000)
Personal Services	\$6,220	\$5,616
All Other	(\$6,220)	(\$5,616)

<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>
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<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$10,138)	(\$7,712)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$10,138)</b>	<b>(\$7,712)</b>

**Bureau of Resource Management 0027**

Initiative: Reallocates the cost of one Marine Resource Scientist II position from 75% Other Special Revenue

Funds and 25% Federal Expenditures Fund to 60% Other Special Revenue Funds and 40% Federal Expenditures Fund in the same program.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$11,484	\$11,488
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$11,484</b>	<b>\$11,488</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	(\$11,484)	(\$11,488)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$11,484)</b>	<b>(\$11,488)</b>

**Bureau of Resource Management 0027**

Initiative: Provides funding to correct negative allocations in the program.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$51,433	\$51,433
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$51,433</b>	<b>\$51,433</b>

**Bureau of Resource Management 0027**

Initiative: Reorganizes one Microbiologist II position to a Microbiologist III position and reduces All Other to fund the reorganization.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$9,645
All Other	\$0	(\$9,645)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**Marine Patrol - Bureau of 0029**

Initiative: Reorganizes one seasonal Marine Patrol Officer position to one full-time Marine Patrol Officer position and transfers the position from the Marine Recreation Fishing Conservation and Management Fund account, Other Special Revenue Funds to the Lobster Management Fund account, Other Special Revenue Funds in the same program.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000

POSITIONS - FTE COUNT	(0.500)	(0.500)
Personal Services	\$33,713	\$34,763
All Other	\$2,030	\$2,093
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$35,743</b>	<b>\$36,856</b>

**Marine Patrol - Bureau of 0029**

Initiative: Reorganizes one Planning and Research Associate I position to a Management Analyst II position and reduces All Other to fund the reorganization.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$3,322
All Other	\$0	(\$3,322)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**Office of the Commissioner 0258**

Initiative: Eliminates one Planning and Research Associate I position in the Office of the Commissioner program and reduces funding for related All Other costs.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
Personal Services	(\$45,288)	(\$60,591)
All Other	(\$1,358)	(\$1,817)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$46,646)</b>	<b>(\$62,408)</b>

**Office of the Commissioner 0258**

Initiative: Transfers one Office Associate II position from the Sea Run Fisheries and Habitat program to the Office of the Commissioner program.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$46,150	\$47,983
<b>GENERAL FUND TOTAL</b>	<b>\$46,150</b>	<b>\$47,983</b>

**Sea Run Fisheries and Habitat Z049**

Initiative: Reallocates 100% of the cost of 2 seasonal Conservation Aide positions, one Marine Resource Scientist I position and one Marine Resource Special-

ist I position and 50% of the cost of one Marine Resource Scientist IV position, one Marine Resource Scientist III position and 2 Marine Specialist I positions from the Marine Recreation Fishing Conservation and Management Fund account, Other Special Revenue Funds to the Kennebec Fisheries account, Other Special Revenue Funds in the same program and adjusts the All Other costs in the same program to partially fund the reallocation.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	0.000
POSITIONS - FTE COUNT	0.000	0.000
Personal Services	\$0	\$0
All Other	\$0	(\$188,168)
<hr/>		
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$188,168)

**Sea Run Fisheries and Habitat Z049**

Initiative: Reallocates the cost of 2 seasonal Conservation Aide positions from 75% Other Special Revenue Funds and 25% General Fund to 75% Federal Expenditures Fund and 25% General Fund in the same program.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - FTE COUNT	0.000	1.000
Personal Services	\$0	\$27,739
<hr/>		
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$27,739

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - FTE COUNT	0.000	(1.000)
Personal Services	\$0	(\$27,739)
<hr/>		
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$27,739)

**Sea Run Fisheries and Habitat Z049**

Initiative: Transfers one Office Associate II position from the Sea Run Fisheries and Habitat program to the Office of the Commissioner program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
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POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
Personal Services	(\$46,150)	(\$47,983)
<hr/>		
GENERAL FUND TOTAL	(\$46,150)	(\$47,983)

**Sea Run Fisheries and Habitat Z049**

Initiative: Reorganizes one Biologist I position to a Marine Resource Scientist II position and transfers All Other to Personal Services to fund the reorganization.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$1,902	\$6,309
All Other	(\$1,902)	(\$6,309)
<hr/>		
GENERAL FUND TOTAL	\$0	\$0

<b>MARINE RESOURCES, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$0</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$11,484</b>	<b>(\$15,891)</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$1,224</b>	<b>(\$243,466)</b>
<hr/>		
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$12,708</b>	<b>(\$259,357)</b>

**Sec. A-23. Appropriations and allocations.**

The following appropriations and allocations are made.

**MUSEUM, MAINE STATE**

**Maine State Museum 0180**

Initiative: Provides one-time funds for 2 seasonal Museum Technician I positions and related costs to support an additional year of a pilot project that will allow the Maine State Museum to be open on Sundays through the summer and fall of 2012. This initiative is expected to generate \$1,500 in General Fund revenue in fiscal year 2012-13.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - FTE COUNT	0.000	0.462
Personal Services	\$0	\$24,284
All Other	\$0	\$5,716
<hr/>		
GENERAL FUND TOTAL	\$0	\$30,000

**Sec. A-24. Appropriations and allocations.**  
The following appropriations and allocations are made.

**BAXTER STATE PARK AUTHORITY**

**Baxter State Park Authority 0253**

Initiative: Reorganizes 4 Baxter Park Ranger I positions to 4 Baxter Park Enforcement Ranger positions.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$6,474	\$33,428
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$6,474	\$33,428

**Sec. A-25. Appropriations and allocations.**  
The following appropriations and allocations are made.

**PUBLIC SAFETY, DEPARTMENT OF**

**Capitol Police - Bureau of 0101**

Initiative: Provides funding for the approved retroactive range change of 6 Capitol Police Officer positions from range 14 to range 17. Funding for fiscal year 2011-12 will be through salary and benefits savings in the department.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$28,084
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	\$28,084

**Computer Crimes 0048**

Initiative: Increases expenditures in the General Fund account to add one Computer Forensic Analyst position and provides All Other funding for contracted detective services to be used primarily to investigate cases within the Computer Crimes Unit.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$76,722
All Other	\$0	\$285,813
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	\$362,535

**Consolidated Emergency Communications Z021**

Initiative: Provides funding for building rental costs for the Regional Communications Center and the State Police troop currently in Orono.

CONSOLIDATED EMERGENCY COMMUNICATIONS FUND	2011-12	2012-13
All Other	\$0	\$41,883
	<hr/>	<hr/>
CONSOLIDATED EMERGENCY COMMUNICATIONS FUND TOTAL	\$0	\$41,883

**Criminal Justice Academy 0290**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$12,019)	(\$14,111)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$12,019)	(\$14,111)

**Fire Marshal - Office of 0327**

Initiative: Provides funding for premium overtime for Public Safety Inspector II positions at the same level as other staff in this classification receive in the Fire Marshal - Office of program.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$15,000
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	\$15,000

**Fire Marshal - Office of 0327**

Initiative: Transfers one Forensic Chemist I position from the Fire Marshal - Office of program to the State Police program.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$73,482)
All Other	\$0	(\$755)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$74,237)

**Fire Marshal - Office of 0327**

Initiative: Provides funding for ongoing federal grants.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	\$101,675
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$101,675

**Fire Marshal - Office of 0327**

Initiative: Reduces funding by recognizing savings from organizational changes made to bring the operational budget within available resources.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$90,000)	(\$150,000)
Capital Expenditures	(\$73,775)	(\$112,066)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$163,775)	(\$262,066)

**Fire Marshal - Office of 0327**

Initiative: Reduces funding by recognizing savings from leaving several positions vacant for part of fiscal year 2011-12 and all of fiscal year 2012-13.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	(\$331,220)	(\$597,721)
All Other	(\$3,000)	(\$19,722)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$334,220)	(\$617,443)

**Gambling Control Board Z002**

Initiative: Establishes one State Police Detective position, one Office Assistant II position, one Auditor II position, 6 Public Safety Inspector I positions and one Public Safety Inspector III position; funds overtime for all inspector positions; and provides funds for licensing and monitoring software to provide adequate resources for the Gambling Control Board to regulate gambling in the State in light of the addition of a 2nd casino and the addition of table games.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	10.000	10.000
Personal Services	\$111,069	\$769,279
All Other	\$44,849	\$26,952
GENERAL FUND TOTAL	\$155,918	\$796,231

**Gambling Control Board Z002**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$2,507)	(\$9,615)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$2,507)	(\$9,615)

**Gambling Control Board Z002**

Initiative: Reduces funding to align with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	(\$4,927)	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$4,927)	\$0

**Licensing and Enforcement - Public Safety 0712**

Initiative: Provides funding for the replacement of vehicles.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Capital Expenditures	\$0	\$21,750
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$21,750

**State Police 0291**

Initiative: Provides funding for overtime costs related to Maine State Police federal grants.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$950,000
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$950,000

**State Police 0291**

Initiative: Provides funding for overtime costs for escort and construction details performed by the Maine State Police.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
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Personal Services	\$0	\$500,000
All Other	\$0	\$6,985
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$506,985

**State Police 0291**

Initiative: Transfers one Forensic Chemist I position from the Fire Marshal - Office of program to the State Police program.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$37,475
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	\$37,475

**State Police 0291**

Initiative: Provides funding for building rental costs for the Regional Communications Center and the State Police troop currently in Orono.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$64,802
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	\$64,802

**Traffic Safety - Commercial Vehicle Enforcement 0715**

Initiative: Reallocates the cost of 11 Motor Carrier Inspector positions from 34% Federal Expenditures Fund and 66% Highway Fund to 37% Federal Expenditures Fund and 63% Highway Fund for 9 positions, 38% Federal Expenditures Fund and 62% Highway Fund for one position and 38.09% Federal Expenditures Fund and 61.91% Highway Fund for one position; and one Contract/Grant Specialist position from 34% Federal Expenditures Fund and 66% Highway Fund to 100% Highway Fund in the same program.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	(\$925)	(\$785)
	<hr/>	<hr/>
FEDERAL EXPENDITURES FUND TOTAL	(\$925)	(\$785)

**Turnpike Enforcement 0547**

Initiative: Provides funding for the replacement of vehicles.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Capital Expenditures	\$0	\$153,655
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$153,655

**PUBLIC SAFETY, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$155,918</b>	<b>\$1,304,127</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>(\$925)</b>	<b>\$1,050,890</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>(\$517,448)</b>	<b>(\$295,082)</b>
<b>CONSOLIDATED EMERGENCY COMMUNICATIONS FUND</b>	<b>\$0</b>	<b>\$41,883</b>
	<hr/>	<hr/>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$362,455)</b>	<b>\$2,101,818</b>

**Sec. A-26. Appropriations and allocations.**

The following appropriations and allocations are made.

**RETIREMENT SYSTEM, MAINE PUBLIC EMPLOYEES**

**Retirement System - Retirement Allowance Fund 0085**

Initiative: Reduces funding for benefits for retired Governors and their surviving spouses and retired pre-1984 judges to align the budget with projections provided by the Maine Public Employees Retirement System.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$1,122,570)	(\$1,122,570)
	<hr/>	<hr/>
GENERAL FUND TOTAL	(\$1,122,570)	(\$1,122,570)

**Retirement System - Subsidized Military Service Credit Z094**

Initiative: Notwithstanding the Maine Revised Statutes, Title 5, section 17760, subsection 6, paragraph C, appropriates funds to allow a member whom the Maine Public Employees Retirement System has determined is qualified to purchase military service credit at a subsidized rate pursuant to Public Law 2003, chapter 693 based on a first date of retirement eligibility of May 1, 2013.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$116,617	\$0
<b>GENERAL FUND TOTAL</b>	<b>\$116,617</b>	<b>\$0</b>
<b>RETIREMENT SYSTEM, MAINE PUBLIC EMPLOYEES</b>		
<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	(\$1,005,953)	(\$1,122,570)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$1,005,953)</b>	<b>(\$1,122,570)</b>

**Sec. A-27. Appropriations and allocations.**  
The following appropriations and allocations are made.

**TREASURER OF STATE, OFFICE OF**

**Debt Service - Treasury 0021**

Initiative: Reduces funding for debt service to reflect updated interest costs for the biennium.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$1,755,232)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,755,232)</b>

**Debt Service - Treasury 0021**

Initiative: Reduces funding to reflect reduced bond issuance and note interest.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$333,333)	(\$1,184,375)
<b>GENERAL FUND TOTAL</b>	<b>(\$333,333)</b>	<b>(\$1,184,375)</b>

**Disproportionate Tax Burden Fund 0472**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$196,848)	(\$147,243)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$196,848)</b>	<b>(\$147,243)</b>

**Disproportionate Tax Burden Fund 0472**

Initiative: Adjusts allocations for a sales tax exemption for positive airway pressure equipment used in respiratory ventilation and for supplies, repair parts and replacement parts for such equipment.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$959)	(\$2,349)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$959)</b>	<b>(\$2,349)</b>

**Disproportionate Tax Burden Fund 0472**

Initiative: Provides funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$374,972	\$117,603
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$374,972</b>	<b>\$117,603</b>

**State - Municipal Revenue Sharing 0020**

Initiative: Adjusts allocations for a sales tax exemption for positive airway pressure equipment used in respiratory ventilation and for supplies, repair parts and replacement parts for such equipment.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$4,684)	(\$10,701)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$4,684)</b>	<b>(\$10,701)</b>

**State - Municipal Revenue Sharing 0020**

Initiative: Provides funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$869,663	(\$135,027)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$869,663</b>	<b>(\$135,027)</b>

**TREASURER OF STATE,  
OFFICE OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
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GENERAL FUND	(\$333,333)	(\$2,939,607)
OTHER SPECIAL REVENUE FUNDS	\$1,042,144	(\$177,717)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$708,811</b>	<b>(\$3,117,324)</b>

OTHER SPECIAL REVENUE FUNDS	(\$28,219)	(\$19,229)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$878,219)</b>	<b>(\$101,279)</b>

**PART B**

**Sec. A-28. Appropriations and allocations.**  
The following appropriations and allocations are made.

**UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE**

**Debt Service - University of Maine System 0902**

Initiative: Reduces funding to reflect reduced debt service costs.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$850,000)	(\$82,050)
<b>GENERAL FUND TOTAL</b>	<b>(\$850,000)</b>	<b>(\$82,050)</b>

**University of Maine Scholarship Fund Z011**

Initiative: Reduces funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on December 1, 2011.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$23,205)	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$23,205)</b>	<b>\$0</b>

**University of Maine Scholarship Fund Z011**

Initiative: Adjusts funding to align allocations with projected available resources approved by the Revenue Forecasting Committee on March 1, 2012.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	(\$5,014)	(\$19,229)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>(\$5,014)</b>	<b>(\$19,229)</b>

**UNIVERSITY OF MAINE SYSTEM, BOARD OF TRUSTEES OF THE**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	(\$850,000)	(\$82,050)

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Lottery Operations 0023**

Initiative: RECLASSIFICATIONS

<b>STATE LOTTERY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$11,516	\$11,869
All Other	(\$11,516)	(\$11,869)
<b>STATE LOTTERY FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
STATE LOTTERY FUND	\$0	\$0

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>
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**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

**Division of Animal Health and Industry 0394**

Initiative: RECLASSIFICATIONS

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$10,525	\$3,508
All Other	(\$10,525)	(\$3,508)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
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GENERAL FUND	\$0	\$0
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>

**ARTS COMMISSION, MAINE**

**Arts - Administration 0178**

Initiative: RECLASSIFICATIONS

GENERAL FUND	2011-12	2012-13
Personal Services	\$6,409	\$6,410
All Other	(\$6,409)	(\$6,410)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**Arts - Sponsored Program 0176**

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$1,205	\$1,205
All Other	(\$1,205)	(\$1,205)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**ARTS COMMISSION, MAINE**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$0
FEDERAL EXPENDITURES FUND	\$0	\$0
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>

**CONSERVATION, DEPARTMENT OF**

**Forest Policy and Management - Division of 0240**

Initiative: RECLASSIFICATIONS

GENERAL FUND	2011-12	2012-13
Personal Services	\$1,414	\$4,649
All Other	(\$1,414)	(\$4,649)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**Parks - General Operations 0221**

Initiative: RECLASSIFICATIONS

GENERAL FUND	2011-12	2012-13
Personal Services	\$5,568	\$8,081
All Other	(\$5,568)	(\$8,081)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**CONSERVATION, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$0
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>

**DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF**

**Military Training and Operations 0108**

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$11,977	\$8,756
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$11,977</b>	<b>\$8,756</b>

**DEFENSE, VETERANS AND EMERGENCY MANAGEMENT, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
FEDERAL EXPENDITURES FUND	\$11,977	\$8,756
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$11,977</b>	<b>\$8,756</b>

**EDUCATION, DEPARTMENT OF**

**Special Services Team Z080**

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$3,666	\$3,667
All Other	(\$3,666)	(\$3,667)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**EDUCATION,  
DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$0</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>

**ENVIRONMENTAL PROTECTION,  
DEPARTMENT OF**

**Administration - Environmental Protection 0251**

Initiative: RECLASSIFICATIONS

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$7,737	\$3,618
All Other	(\$7,737)	(\$3,618)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**Maine Environmental Protection Fund 0421**

Initiative: RECLASSIFICATIONS

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$16,741	\$7,772
All Other	(\$16,741)	(\$7,772)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**Remediation and Waste Management 0247**

Initiative: RECLASSIFICATIONS

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$18,220	\$10,157
All Other	(\$18,220)	(\$10,157)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$147,413	\$80,858
All Other	(\$147,413)	(\$80,858)

<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$0</b>
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<b>ENVIRONMENTAL PROTECTION, DEPARTMENT OF</b>	<b>2011-12</b>	<b>2012-13</b>
<b>DEPARTMENT TOTALS</b>	<b>\$0</b>	<b>\$0</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$0</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$0</b>

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>
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**EXECUTIVE DEPARTMENT**

**Planning Office 0082**

Initiative: RECLASSIFICATIONS

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$6,237	\$6,239
All Other	(\$6,237)	(\$6,239)

<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>
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<b>EXECUTIVE DEPARTMENT DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$0</b>

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>
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**HEALTH AND HUMAN SERVICES,  
DEPARTMENT OF (FORMERLY DHS)**

**Child Support 0100**

Initiative: RECLASSIFICATIONS

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$2,683	\$1,117
All Other	(\$2,683)	(\$1,117)

<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>
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FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$6,005	\$2,236
All Other	\$166	\$61
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$6,171</b>	<b>\$2,297</b>

**Division of Data, Research and Vital Statistics Z037**

Initiative: RECLASSIFICATIONS

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$6,351	\$3,385
All Other	\$176	\$85
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$6,527</b>	<b>\$3,470</b>

**Division of Licensing and Regulatory Services Z036**

Initiative: RECLASSIFICATIONS

GENERAL FUND	2011-12	2012-13
Personal Services	\$30,125	\$9,586
All Other	(\$30,125)	(\$9,586)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$59,152	\$17,807
All Other	\$1,162	\$506
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$60,314</b>	<b>\$18,313</b>

**Office of Elder Services Central Office 0140**

Initiative: RECLASSIFICATIONS

GENERAL FUND	2011-12	2012-13
Personal Services	\$16,079	\$8,473
All Other	(\$16,079)	(\$8,473)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$2,719	\$1,517
All Other	\$44	\$31

FEDERAL EXPENDITURES FUND TOTAL	\$2,763	\$1,548
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**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$0</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$8,934</b>	<b>\$3,845</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$66,841</b>	<b>\$21,783</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$75,775</b>	<b>\$25,628</b>

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

**Licensing Services - Inland Fisheries and Wildlife 0531**

Initiative: RECLASSIFICATIONS

GENERAL FUND	2011-12	2012-13
Personal Services	\$3,415	\$3,420
All Other	(\$3,415)	(\$3,420)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**Public Information and Education, Division of 0729**

Initiative: RECLASSIFICATIONS

GENERAL FUND	2011-12	2012-13
Personal Services	\$5,807	\$5,808
All Other	(\$5,807)	(\$5,808)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$7,710	\$3,632
All Other	\$88	\$42
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$7,798</b>	<b>\$3,674</b>

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF DEPARTMENT TOTALS**

	2011-12	2012-13
GENERAL FUND	\$0	\$0
OTHER SPECIAL REVENUE FUNDS	\$7,798	\$3,674
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$7,798</b>	<b>\$3,674</b>

**JUDICIAL DEPARTMENT**

**Courts - Supreme, Superior and District 0063**

Initiative: RECLASSIFICATIONS

GENERAL FUND	2011-12	2012-13
Personal Services	\$61,611	\$62,217
All Other	(\$61,611)	(\$62,217)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**JUDICIAL DEPARTMENT DEPARTMENT TOTALS**

	2011-12	2012-13
GENERAL FUND	\$0	\$0
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>

**LABOR, DEPARTMENT OF**

**Blind and Visually Impaired - Division for the 0126**

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$38,205	\$4,652
All Other	(\$38,205)	(\$4,652)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**Rehabilitation Services 0799**

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$33,606	\$7,357
All Other	(\$33,606)	(\$7,357)

FEDERAL EXPENDITURES FUND TOTAL

\$0 \$0

LABOR, DEPARTMENT OF DEPARTMENT TOTALS

	2011-12	2012-13
FEDERAL EXPENDITURES FUND	\$0	\$0

DEPARTMENT TOTAL - ALL FUNDS

\$0 \$0

**MARINE RESOURCES, DEPARTMENT OF**

**Bureau of Resource Management 0027**

Initiative: RECLASSIFICATIONS

GENERAL FUND	2011-12	2012-13
Personal Services	\$2,779	\$2,779
All Other	(\$2,779)	(\$2,779)

GENERAL FUND TOTAL

\$0 \$0

FEDERAL EXPENDITURES FUND

	2011-12	2012-13
Personal Services	\$21,021	\$5,681
All Other	(\$21,021)	(\$5,681)

FEDERAL EXPENDITURES FUND TOTAL

\$0 \$0

OTHER SPECIAL REVENUE FUNDS

	2011-12	2012-13
Personal Services	\$2,444	\$2,445

OTHER SPECIAL REVENUE FUNDS TOTAL

\$2,444 \$2,445

**Sea Run Fisheries and Habitat Z049**

Initiative: RECLASSIFICATIONS

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$20,441	\$6,388
All Other	(\$20,441)	(\$6,388)

FEDERAL EXPENDITURES FUND TOTAL

\$0 \$0

	2011-12	2012-13
<b>OTHER SPECIAL REVENUE FUNDS</b>		
Personal Services	\$19,620	\$6,081
All Other	(\$19,620)	(\$6,081)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$0
<b>MARINE RESOURCES, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	\$0
FEDERAL EXPENDITURES FUND	\$0	\$0
OTHER SPECIAL REVENUE FUNDS	\$2,444	\$2,445
	<hr/>	<hr/>
DEPARTMENT TOTAL - ALL FUNDS	\$2,444	\$2,445

**PUBLIC SAFETY, DEPARTMENT OF Drug Enforcement Agency 0388**

Initiative: RECLASSIFICATIONS

	2011-12	2012-13
<b>GENERAL FUND</b>		
Personal Services	\$3,800	\$2,153
All Other	(\$3,800)	(\$2,153)
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	\$0

**Licensing and Enforcement - Public Safety 0712**

Initiative: RECLASSIFICATIONS

	2011-12	2012-13
<b>OTHER SPECIAL REVENUE FUNDS</b>		
Personal Services	\$2,420	\$970
All Other	(\$2,420)	(\$970)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$0

**PUBLIC SAFETY, DEPARTMENT OF**

	2011-12	2012-13
<b>DEPARTMENT TOTALS</b>		
GENERAL FUND	\$0	\$0
OTHER SPECIAL REVENUE FUNDS	\$0	\$0

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<hr/>	<hr/>
	\$0	\$0
<b>SECTION TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	\$0
FEDERAL EXPENDITURES FUND	\$20,911	\$12,601
OTHER SPECIAL REVENUE FUNDS	\$77,083	\$27,902
STATE LOTTERY FUND	\$0	\$0
	<hr/>	<hr/>
SECTION TOTAL - ALL FUNDS	\$97,994	\$40,503

**PART C**

**Sec. C-1. 20-A MRSA §1462, sub-§2**, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

**2. Transfer.** The municipal officers and boards contacted pursuant to subsection 1 shall make the transfer of property and assets notwithstanding any other provision in the charter of the school administrative unit or municipality. After the operational date of a regional school unit, if a transfer of property by a prior regional school unit, school administrative district or community school district has not occurred in accordance with the reorganization plan, the regional school unit board may act as the successor to the school board of the prior regional school unit, school administrative district or community school district for purposes of transferring the title to the property by deed to the regional school unit or other transferee in accordance with the terms of the reorganization plan.

**Sec. C-2. 20-A MRSA §15671, sub-§7, ¶A**, as amended by PL 2011, c. 380, Pt. C, §1, is further amended to read:

A. The base total calculated pursuant to section 15683, subsection 2 is subject to the following annual targets.

- (1) For fiscal year 2005-06, the target is 84%.
- (2) For fiscal year 2006-07, the target is 90%.
- (3) For fiscal year 2007-08, the target is 95%.
- (4) For fiscal year 2008-09, the target is 97%.
- (5) For fiscal year 2009-10, the target is 97%.

(6) For fiscal year 2010-11, the target is 97%.

(7) For fiscal year 2011-12, the target is 97%.

(8) For fiscal year 2012-13 ~~and succeeding years~~, the target is ~~100%~~ 97%.

(9) For fiscal year 2013-14 and succeeding years, the target is 100%.

**Sec. C-3. 20-A MRSA §15671, sub-§7, ¶B**, as amended by PL 2011, c. 477, Pt. C, §1, is further amended to read:

B. The annual targets for the state share percentage of the statewide adjusted total cost of the components of essential programs and services are as follows.

(1) For fiscal year 2005-06, the target is 52.6%.

(2) For fiscal year 2006-07, the target is 53.86%.

(3) For fiscal year 2007-08, the target is 53.51%.

(4) For fiscal year 2008-09, the target is 52.52%.

(5) For fiscal year 2009-10, the target is 48.93%.

(6) For fiscal year 2010-11, the target is 45.84%.

(7) For fiscal year 2011-12, the target is ~~46.13%~~ 46.02%.

(8) For fiscal year 2012-13, the target is 46.60%.

**Sec. C-4. 20-A MRSA §15671, sub-§7, ¶C**, as amended by PL 2011, c. 477, Pt. C, §2, is further amended to read:

C. Beginning in fiscal year 2011-12, the annual targets for the state share percentage of the total cost of funding public education from kindergarten to grade 12 including the cost of the components of essential programs and services plus the state contributions to teacher retirement, retired teachers' health insurance and retired teachers' life insurance are as follows.

(1) For fiscal year 2011-12, the target is ~~49.56%~~ 49.47%.

(2) For fiscal year 2012-13, the target is ~~52.50%~~ 50%.

(3) For fiscal year 2013-14 and succeeding years, the target is 55%.

**Sec. C-5. 20-A MRSA §15671-A, sub-§2, ¶B**, as amended by PL 2011, c. 477, Pt. C, §3, is further amended to read:

B. For property tax years beginning on or after April 1, 2005, the commissioner shall calculate the full-value education mill rate that is required to raise the statewide total local share. The full-value education mill rate is calculated for each fiscal year by dividing the applicable statewide total local share by the applicable statewide valuation. The full-value education mill rate must decline over the period from fiscal year 2005-06 to fiscal year 2008-09 and may not exceed 9.0 mills in fiscal year 2005-06 and may not exceed 8.0 mills in fiscal year 2008-09. The full-value education mill rate must be applied according to section 15688, subsection 3-A, paragraph A to determine a municipality's local cost share expectation. Full-value education mill rates must be derived according to the following schedule.

(1) For the 2005 property tax year, the full-value education mill rate is the amount necessary to result in a 47.4% statewide total local share in fiscal year 2005-06.

(2) For the 2006 property tax year, the full-value education mill rate is the amount necessary to result in a 46.14% statewide total local share in fiscal year 2006-07.

(3) For the 2007 property tax year, the full-value education mill rate is the amount necessary to result in a 46.49% statewide total local share in fiscal year 2007-08.

(4) For the 2008 property tax year, the full-value education mill rate is the amount necessary to result in a 47.48% statewide total local share in fiscal year 2008-09.

(4-A) For the 2009 property tax year, the full-value education mill rate is the amount necessary to result in a 51.07% statewide total local share in fiscal year 2009-10.

(4-B) For the 2010 property tax year, the full-value education mill rate is the amount necessary to result in a 54.16% statewide total local share in fiscal year 2010-11.

(4-C) For the 2011 property tax year, the full-value education mill rate is the amount necessary to result in a ~~53.87%~~ 53.98% statewide total local share in fiscal year 2011-12.

(5) For the 2012 property tax year, the full-value education mill rate is the amount necessary to result in a ~~47.74%~~ 53.40% statewide total local share in fiscal year 2012-13.

(6) For the 2013 property tax year, the full-value education mill rate is the amount necessary to result in a 47.50% statewide total local share in fiscal year 2013-14.

(7) For the 2014 property tax year and subsequent tax years, the full-value education mill rate is the amount necessary to result in a 45% statewide total local share in fiscal year 2014-15 and after.

**Sec. C-6. 20-A MRSA §15672, sub-§25-A,** as enacted by PL 2007, c. 668, §35, is amended to read:

**25-A. School administrative unit.** "School administrative unit" means a school administrative unit as defined by section 1, subsection 26 ~~except that for those school administrative units that are members of an alternative organizational structure, the alternative organizational structure is the school administrative unit for the purposes of this chapter, paragraphs A to G.~~

**Sec. C-7. 20-A MRSA §15683-A,** as amended by PL 2009, c. 213, Pt. C, §7, is further amended to read:

**§15683-A. Total debt service allocation**

For each school administrative unit, that unit's total debt service allocation is that unit's debt service costs as defined in section 15672, subsection 2-A. ~~For the 2008-09 and 2009-10 funding years only, for each school administrative unit, that unit's total debt service allocation is that unit's debt service costs as defined in section 15672, subsection 2-A excluding 80% of the insured value factor pursuant to section 15672, subsection 2-A, paragraph C. For the 2010-11 funding year only, each~~ Each school administrative unit's total debt service allocation must include the portion of the tuition cost applicable to the insured value factor for the base year computed under section 5806 limited to an insured value factor no greater than 5% for each eligible student.

**Sec. C-8. 20-A MRSA §15689, sub-§1, ¶A,** as amended by PL 2009, c. 571, Pt. E, §21, is further amended to read:

- A. The sum of the following calculations:
  - (1) Multiplying 5% of each school administrative unit's essential programs and services per-pupil elementary rate by the average number of resident kindergarten to grade 8 pupils as determined under section 15674, subsection 1, paragraph C, subparagraph (1); and
  - (2) Multiplying 5% of each school administrative unit's essential programs and services per-pupil secondary rate by the average number of resident grade 9 to grade 12 pupils as

determined under section 15674, subsection 1, paragraph C, subparagraph (1).

The 5% factor in subparagraphs (1) and (2) must be replaced by: 4% for the 2009-10 funding year including funds provided under Title XIV of the State Fiscal Stabilization Fund of the American Recovery and Reinvestment Act of 2009; 3% for the 2010-11 funding year including funds provided under Title XIV of the State Fiscal Stabilization Fund of the American Recovery and Reinvestment Act of 2009; ~~and 3% for the 2011-12 funding year; and 4% for the 2012-13 funding year~~ and subsequent years; and

**Sec. C-9. 20-A MRSA §15689, sub-§1, ¶B,** as repealed and replaced by PL 2009, c. 571, Pt. E, §22, is amended to read:

B. The school administrative unit's special education costs as calculated pursuant to section 15681-A, subsection 2 multiplied by the following transition percentages:

- (1) In fiscal year 2005-06, 84%;
- (2) In fiscal year 2006-07, 84%;
- (3) In fiscal year 2007-08, 84%;
- (4) In fiscal year 2008-09, 45%;
- (5) In fiscal year 2009-10, 40% including funds provided under Title XIV of the State Fiscal Stabilization Fund of the American Recovery and Reinvestment Act of 2009;
- (6) In fiscal year 2010-11, 35% including funds provided under Title XIV of the State Fiscal Stabilization Fund of the American Recovery and Reinvestment Act of 2009; ~~and~~
- (7) In fiscal year 2011-12 ~~and succeeding years, 30%;~~ and
- (8) In fiscal year 2012-13 and succeeding years, 35%.

**Sec. C-10. 20-A MRSA §15689, sub-§12** is enacted to read:

**12. Adjustment of subsidy for statewide contract purchases.** The commissioner may expend and disburse funds on behalf of school administrative units for purchases of items available on statewide contracts. The school administrative unit's available state subsidy must be reduced based on the cost of the items purchased and upon prior agreement with the school administrative unit. If sufficient state subsidy funds are not available in the fiscal year in which the items were purchased, the reduction to the school administrative unit's available state subsidy may occur in the following fiscal year's state subsidy.

**Sec. C-11. 20-A MRSA §15689-A, sub-§§21 and 22** are enacted to read:

**21. Fund for the Efficient Delivery of Educational Services.** The commissioner may expend and disburse funds from the Fund for the Efficient Delivery of Educational Services in accordance with the provisions of chapter 114-A.

**22. MaineCare seed for school administrative units.** The commissioner may deduct from a school administrative unit's state subsidy and pay on behalf of the school administrative unit allowable school-based costs that represent the school administrative unit's portion of MaineCare payments. A transfer of payment by the department to the Department of Health and Human Services must be made pursuant to a schedule agreed upon by the Department of Health and Human Services and the department and based on documentation of payments made from MaineCare funds.

**Sec. C-12. 20-A MRS §15690, sub-§1, ¶D,** as enacted by PL 2009, c. 571, Pt. E, §25, is amended to read:

D. Beginning in fiscal year 2010-11, in any fiscal year in which the sum of the State's contribution toward the cost of the components of essential programs and services, exclusive of federal funds that are provided and accounted for in the cost of the components of essential programs and services, plus any federal stimulus funds applied to the State's contribution, falls below the State's target of 55% of the cost of the components of essential programs and services, the commissioner shall calculate the percentage of the State's 55% share that is funded by state appropriations and federal stimulus funds and, notwithstanding any other provision of this paragraph, a school administrative unit that raises at least the same percentage of its required local contribution to the total cost of funding public education from kindergarten to grade 12, including state-funded debt service, as the State's contribution plus federal stimulus funds toward its 55% share of the cost of the components of essential programs and services may not have the amount of its state subsidy limited or reduced under paragraph C.

This paragraph is repealed June 30, ~~2012~~ 2013.

**Sec. C-13. PL 2011, c. 380, Pt. C, §§8 and 9,** as amended by PL 2011, c. 477, Pt. C, §4, are further amended to read:

**Sec. C-8. Total cost of funding public education from kindergarten to grade 12.** The total cost of funding public education from kindergarten to grade 12 for fiscal year 2011-12 is as follows:

2011-12	
TOTAL	
Total Operating Allocation	

Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 without transitions percentage	\$1,390,771,314
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Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 with 97% transitions percentage	\$1,349,048,174
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Total other subsidizable costs pursuant to the Maine Revised Statutes, Title 20-A, section 15681-A	\$413,851,257
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**Total Operating Allocation**

Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 and total other subsidizable costs pursuant to Title 20-A, section 15681-A	\$1,762,899,431
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**Total Debt Service Allocation**

Total debt service allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683-A	\$104,575,834
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**Total Adjustments and Miscellaneous Costs**

Total adjustments and miscellaneous costs pursuant to the Maine Revised Statutes, Title 20-A, sections 15689 and 15689-A	<del>-\$67,593,846</del> <u>\$63,894,104</u>
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**Total Cost of Funding Public Education from Kindergarten to Grade 12**

Total cost of funding public education from kindergarten to grade 12 for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B	<del>\$1,935,069,111</del> <u>\$1,931,369,369</u>
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Total cost of the state contribution to teacher retirement, teacher retirement health insurance and teacher retirement life insurance for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 5, chapters 421 and 423	\$172,592,848
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Adjustment pursuant to the Maine Revised Statutes, Title 20-A, section 15683, subsection 2	\$41,723,140
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Total cost of funding public education from kindergarten to grade 12 \$2,149,385,099  
\$2,145,685,357

Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 without transitions percentage \$1,395,869,772

**Sec. C-9. Local and state contributions to total cost of funding public education from kindergarten to grade 12.** The local contribution and the state contribution appropriation provided for general purpose aid for local schools for the fiscal year beginning July 1, 2011 and ending June 30, 2012 is calculated as follows:

Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 with 97% transitions percentage \$1,353,993,679

Total other subsidizable costs pursuant to the Maine Revised Statutes, Title 20-A, section 15681-A \$429,737,826

	2011-12	2011-12
	LOCAL	STATE
<b>Local and State Contributions to the Total Cost of Funding Public Education from Kindergarten to Grade 12</b>		

**Total Operating Allocation**

Total operating allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683 and total other subsidizable costs pursuant to Title 20-A, section 15681-A \$1,783,731,505

Local and state contributions to the total cost of funding public education from kindergarten to grade 12 pursuant to the Maine Revised Statutes, Title 20-A, section 15683 - subject to statewide distributions required by law	\$1,042,466,969	<del>-\$892,602,142</del> <u>\$888,902,400</u>
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**Total Debt Service Allocation**

Total debt service allocation pursuant to the Maine Revised Statutes, Title 20-A, section 15683-A \$103,872,675

State contribution to the total cost of teacher retirement, teacher retirement health insurance and teacher retirement life insurance for fiscal year 2011-12 pursuant to the Maine Revised Statutes, Title 5, chapters 421 and 423		\$172,592,848
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**Total Adjustments and Miscellaneous Costs**

Total adjustments and miscellaneous costs pursuant to the Maine Revised Statutes, Title 20-A, sections 15689 and 15689-A \$66,749,900

State contribution to the total cost of funding public education from kindergarten to grade 12		\$1,065,194,990 <u>\$1,061,495,248</u>
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**Total Cost of Funding Public Education from Kindergarten to Grade 12**

Total cost of funding public education from kindergarten to grade 12 for fiscal year 2012-13 pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B \$1,954,354,080

**Sec. C-14. Mill expectation.** The mill expectation pursuant to the Maine Revised Statutes, Title 20-A, section 15671-A for fiscal year 2012-13 is 7.69.

**Sec. C-15. Total cost of funding public education from kindergarten to grade 12.** The total cost of funding public education from kindergarten to grade 12 for fiscal year 2012-13 is as follows:

Total cost of the state contribution to teacher retirement, teacher retirement health insurance and teacher retirement life insurance for fiscal year 2012-13 pursuant to the Maine Revised Statutes, Title 5, chapters 421 and 423 \$174,932,892

2012-13  
TOTAL

**Total Operating Allocation**

Adjustment pursuant to the Maine Revised Statutes, Title 20-A, section 15683, subsection 2	\$41,876,093
Total cost of funding public education from kindergarten to grade 12	\$2,171,163,065

**Sec. C-16. Local and state contributions to total cost of funding public education from kindergarten to grade 12.** The local contribution and the state contribution appropriation provided for general purpose aid for local schools for the fiscal year beginning July 1, 2012 and ending June 30, 2013 is calculated as follows:

	2012-13 LOCAL	2012-13 STATE
<b>Local and State Contributions to the Total Cost of Funding Public Education from Kindergarten to Grade 12</b>		
Local and state contributions to the total cost of funding public education from kindergarten to grade 12 pursuant to the Maine Revised Statutes, Title 20-A, section 15683 - subject to statewide distributions required by law	\$1,043,692,866	\$910,661,214
State contribution to the total cost of teacher retirement, teacher retirement health insurance and teacher retirement life insurance for fiscal year 2012-13 pursuant to the Maine Revised Statutes, Title 5, chapters 421 and 423		\$174,932,892
State contribution to the total cost of funding public education from kindergarten to grade 12		\$1,085,594,106

**Sec. C-17. Limit of State's obligation.** If the State's continued obligation for any individual component contained in those sections of this Part that set the total cost of funding public education from kindergarten to grade 12 and the local and state contributions for that purpose exceeds the level of funding provided for that component, any unexpended balances occurring in other programs may be applied to

avoid proration of payments for any individual component. Any unexpended balances from this Part may not lapse but must be carried forward for the same purpose.

**Sec. C-18. Authorization of payments.**

Those sections of this Part that set the total cost of funding public education from kindergarten to grade 12 and the local and state contributions for that purpose may not be construed to require the State to provide payments that exceed the appropriation of funds for general purpose aid for local schools for the fiscal year beginning July 1, 2012 and ending June 30, 2013.

**PART D**

**Sec. D-1. 5 MRSA §931, sub-§1, ¶G,** as enacted by PL 1983, c. 729, §4, is amended to read:

G. Employees working in the Governor's office, Governor's Office of Communications, Governor's Energy Office and at the Blaine Mansion;

**Sec. D-2. 5 MRSA §937, sub-§1, ¶A,** as amended by PL 2007, c. 1, Pt. D, §1, is further amended to read:

A. Deputy Commissioner; ~~and~~

**Sec. D-3. 5 MRSA §937, sub-§1, ¶F,** as amended by PL 2011, c. 380, Pt. PPP, §1, is further amended to read:

F. Director, Policy and Programs; ~~;~~

**Sec. D-4. 5 MRSA §937, sub-§1, ¶¶K, L and M** are enacted to read:

K. Director, PK-20, Adult Education and Federal Programs Team;

L. Director, Special Services Team; and

M. Director, Communications.

**Sec. D-5. 5 MRSA §943, sub-§1, ¶¶J and K,** as enacted by PL 1995, c. 560, Pt. G, §3, are amended to read:

J. Executive Director, Office of Operations; ~~and~~

K. Director, Bureau of Rehabilitation Services; ~~;~~

**Sec. D-6. 5 MRSA §943, sub-§1, ¶¶L and M** are enacted to read:

L. Director, Bureau of Unemployment Compensation; and

M. Director, Public Information.

**Sec. D-7. 20-A MRSA §203, sub-§1, ¶A,** as amended by PL 2009, c. 571, Pt. W, §1, is further amended to read:

A. Deputy Commissioner; ~~and~~

**Sec. D-8. 20-A MRSA §203, sub-§1, ¶F,** as amended by PL 2011, c. 380, Pt. PPP, §2, is further amended to read:

F. Director, Policy and Programs;

**Sec. D-9. 20-A MRSA §203, sub-§1, ¶¶K to M** are enacted to read:

K. Director, PK-20, Adult Education and Federal Programs Team;

L. Director, Special Services Team; and

M. Director, Communications.

**Sec. D-10. 26 MRSA §1401-B, sub-§1, ¶B**, as amended by PL 2007, c. 1, Pt. D, §4, is further amended to read:

B. The commissioner shall appoint to serve at the commissioner's pleasure:

- (2) Assistant to the Commissioner for Public Affairs;
- (3) Deputy Commissioner;
- (4) Director, Bureau of Labor Standards;
- (5) Beginning April 15, 1996, Executive Director, Bureau of Employment Services;
- (6) Executive Director, Office of Operations; ~~and~~
- (7) Director, Bureau of Rehabilitation Services;
- (8) Director, Bureau of Unemployment Compensation; and
- (9) Director, Public Information.

**Sec. D-11. Contingent effective date.** The Maine Revised Statutes, Title 5, section 943, subsection 1, paragraph L and Title 26, section 1401-B, subsection 1, paragraph B, subparagraph (8) do not take effect until the position of Director, Bureau of Unemployment Compensation first becomes vacant following enactment of this Part. The Commissioner of Labor shall inform the Revisor of Statutes when this contingency occurs and the Revisor shall update the Maine Revised Statutes to reflect the changes.

#### PART E

**Sec. E-1. 20-A MRSA §2307, first ¶**, as amended by PL 2007, c. 668, §28 and affected by §55, is further amended to read:

Notwithstanding any other law, municipal school budgets developed after January 1, 2008 must follow the same school budget requirements as regional school units pursuant to chapter 103-A, except as described in subsections 1 and 2. A municipal school unit is deemed to be a regional school unit solely for the purpose of developing a budget pursuant to chapter 103-A. A municipality has the same authority to commit property taxes as provided in section 1487.

#### PART F

**Sec. F-1. 20-A MRSA §15689, sub-§12** is enacted to read:

**12. Bus refurbishing program.** Beginning in fiscal year 2012-13 and in each subsequent year, the commissioner may increase the state share of the total allocation to a qualifying school administrative unit for the approved refurbishing of a bus.

A. Approval of bus refurbishing must be based on eligibility requirements established by the commissioner, including, but not limited to, the age, mileage and expected useful life of the bus.

B. Adjustment to the state share of the total allocation under this subsection must occur in the fiscal year following the school administrative unit's expenditure and be based on the total amount approved by the commissioner, or the actual expenditure by a school administrative unit if less, for bus refurbishing, multiplied by the school administrative unit's state share percentage except that if a school administrative unit's state share percentage is less than 30% the multiplication factor is 30% and if a school administrative unit's state share percentage is greater than 70% the multiplication factor is 70%.

#### PART G

**Sec. G-1. Transfer of funds.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, for fiscal years 2011-12 and 2012-13, the Commissioner of Education is authorized to identify savings within existing General Fund programs of the Department of Education and transfer up to \$150,000 in available balances by financial order upon the recommendation of the State Budget Officer and approval of the Governor from existing General Fund program accounts to the State Charter School Commission program in order to provide start-up funding for the oversight of public charter schools.

#### PART H

**Sec. H-1. Department of Education; General Purpose Aid for Local Schools; lapsed balances.** Notwithstanding any other provision of law, \$10,009,774 of unencumbered balance forward from the Department of Education, General Purpose Aid for Local Schools program, General Fund carrying account, All Other line category lapses to the General Fund no later than June 30, 2012.

#### PART I

**Sec. I-1. 2 MRSA §6, sub-§2**, as amended by PL 2007, c. 539, Pt. N, §1 and affected by c. 695, Pt. A, §47, is further amended to read:

**2. Range 90.** The salaries of the following state officials and employees are within salary range 90:

Superintendent of Financial Institutions;  
 Superintendent of Consumer Credit Protection;  
 State Tax Assessor;  
Associate Commissioner for Tax Policy, Department of Administrative and Financial Services;  
 Superintendent of Insurance;  
 Executive Director of the Maine Consumer Choice Health Plan;  
 Deputy Commissioner, Department of Administrative and Financial Services;  
 Associate Commissioner for Adult Services, Department of Corrections;  
 Associate Commissioner for Juvenile Services, Department of Corrections;  
 Public Advocate;  
 Deputy Commissioner, Department of Health and Human Services;  
 Chief Information Officer;  
 Associate Commissioner for Legislative and Program Services, Department of Corrections; and  
 Chief of the State Police.

**Sec. I-2. 2 MRSA §6, sub-§3**, as amended by PL 2011, c. 380, Pt. WWW, §1, is further amended to read:

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

Director, Bureau of General Services;  
 Director, Bureau of Alcoholic Beverages and Lottery Operations;  
 State Budget Officer;  
 State Controller;  
 Director of the Bureau of Forestry;  
 Director, State Planning Office;  
 Director, Energy Resources Office;  
 Director of Human Resources;  
 Director, Bureau of Parks and Lands; and  
~~Director of Econometric Research; and~~  
 Director of the Governor's Office of Communications.

**Sec. I-3. 5 MRSA §282, 2nd ¶**, as amended by PL 1985, c. 785, Pt. B, §14, is further amended to read:

The commissioner may employ such other deputies, division heads, assistants and employees as may be necessary, subject to the Civil Service Law. In

addition, the commissioner may employ a Director of Compliance to carry out departmental responsibilities related to: Labor relations and labor contract compliance; human rights and affirmative action compliance; and; audit guidelines and other 3rd-party compliance requirements. The Director of Compliance ~~shall serve~~ serves at the pleasure of the commissioner. In addition, the commissioner may employ an Associate Commissioner for Tax Policy to supervise and direct the tax policy analysis, guidance and communications activities of the Office of Tax Policy within the Bureau of Revenue Services. The Associate Commissioner for Tax Policy serves at the pleasure of the commissioner.

**Sec. I-4. 5 MRSA §931, sub-§1, ¶L-2**, as amended by PL 2005, c. 218, §2, is repealed.

**Sec. I-5. 5 MRSA §947-B, sub-§1**, as amended by PL 2007, c. 240, Pt. HH, §2, is further amended to read:

**1. Major policy-influencing positions.** The following positions are major policy-influencing positions within the Department of Administrative and Financial Services. Notwithstanding any other provision of law, these positions and their successor positions are subject to this chapter:

- B. Director, Bureau of Human Resources;
- D. Director, Bureau of Alcoholic Beverages and Lottery Operations;
- E. Director, Bureau of General Services;
- F. Deputy Commissioner, Department of Administrative and Financial Services;
- G. State Controller;
- H. State Tax Assessor;
- I. State Budget Officer;
- J. Chief Information Officer; ~~and~~
- K. Associate Commissioner, Administrative Services; and
- L. Associate Commissioner for Tax Policy within the Bureau of Revenue Services.

**Sec. I-6. 5 MRSA §1710-E**, as amended by PL 2001, c. 2, §1, is further amended to read:

**§1710-E. Revenue Forecasting Committee; established; membership**

There is established the Revenue Forecasting Committee, referred to in this chapter as the "committee," for the purpose of providing the Governor, the Legislature and the State Budget Officer with analyses, findings and recommendations relating to the projection of revenues for the General Fund and the Highway Fund based on economic assumptions recommended by the Consensus Economic Forecasting Commission. The committee includes the State Budget

Officer, the ~~State Tax Assessor~~ Associate Commissioner for Tax Policy, the State Economist, an economist on the faculty of the University of Maine System selected by the chancellor, the Director of the Office of Fiscal and Program Review and another member of the Legislature's nonpartisan staff familiar with revenue estimating issues appointed by the Legislative Council. One of the 6 members must be selected by a majority vote of the committee members to serve as the chair of the committee.

**Sec. I-7. 36 MRSA §112, sub-§2**, as repealed and replaced by PL 1999, c. 127, Pt. A, §48, is amended to read:

**2. Organization.** The assessor may employ deputies, assistants and employees as necessary, subject to the Civil Service Law unless otherwise provided, and distribute the duties given to the assessor or to the bureau among those persons or divisions in that bureau the assessor considers necessary for economy and efficiency in administration. An officer within each division of the bureau must be designated by the assessor as director of that division. ~~Notwithstanding any other laws, the Director of Econometric Research serves at the pleasure of the assessor.~~ The assessor, for enforcement and administrative purposes, may divide the State into a reasonable number of districts in which branch offices may be maintained.

The Office of Tax Policy, referred to in this paragraph as "the office," is established within the bureau. The head of the office is the Associate Commissioner for Tax Policy, who reports directly to, and serves at the pleasure of, the Commissioner of Administrative and Financial Services and who must have an advanced degree in economics, statistics, accounting, business, law or public policy. The office is responsible for: providing economic and legal policy analysis on tax issues; oversight of tax legislation review; providing revenue forecasting analysis to the Revenue Forecasting Committee under Title 5, section 1710-E; the preparation of tax expenditure reports; the establishment of policy criteria reflected in bureau rules and advisory rulings; and related public relations.

**Sec. I-8. 36 MRSA §112, sub-§7**, as amended by PL 1997, c. 526, §7, is further amended to read:

**7. Evaluation of tax systems.** The assessor and the Office of Tax Policy shall investigate and examine the systems and methods of taxation of other states and make careful and constant inquiry into the practical operation and effect of the laws of this State, in comparison with the laws of other states, with the view of ascertaining wherein the tax laws of this State are defective, inefficient, inoperative or inequitable.

**Sec. I-9. 36 MRSA §191, sub-§2, ¶F**, as amended by PL 2003, c. 673, Pt. DD, §2 and c. 689, Pt. B, §6 and c. 705, §3, is further amended to read:

F. The transmission of information among employees of the Bureau of Revenue Services for the purposes of enforcing and administering the tax laws of this State and the delivery by a register of deeds to the State Tax Assessor or delivery by the State Tax Assessor to the appropriate municipal assessor or to the Maine Land Use Regulation Commission or the Department of Health and Human Services of "declarations of value" in accordance with section 4641-D. The State Tax Assessor may require entities requesting information pursuant to this paragraph other than municipal assessors to provide resources sufficient to cover the cost of providing the forms;

**Sec. I-10. Appointment.** The Commissioner of Administrative and Financial Services shall appoint the person holding the position of Director of Econometric Research on December 9, 2011 to the Associate Commissioner for Tax Policy position effective December 10, 2011.

**Sec. I-11. Retroactivity.** This Part applies retroactively to December 10, 2011.

**PART J**

**Sec. J-1. PL 2011, c. 428, §8** is amended to read:

**Sec. 8. Appropriations and allocations.** The following appropriations and allocations are made.

**CORRECTIONS, STATE BOARD OF**

**State Board of Corrections Investment Fund ~~Z075~~ Z087**

Initiative: Provides funds to support the cost of an anticipated increase in the number of incarcerations related to synthetic cannabinoids.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$3,132
GENERAL FUND TOTAL	\$0	\$3,132

**CORRECTIONS, STATE BOARD OF**

DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$3,132
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$3,132

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

**Maine Commission on Indigent Legal Services Z112**

Initiative: Provides funds for an anticipated increase in the cost of court-appointed counsel as a result of adding synthetic cannabinoids to the list of schedule Z drugs.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$3,110
<hr/>		
GENERAL FUND TOTAL	\$0	\$3,110

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON DEPARTMENT TOTALS**

GENERAL FUND	2011-12	2012-13
	\$0	\$3,110
<hr/>		
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$3,110

SECTION TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$6,242
<hr/>		
SECTION TOTAL - ALL FUNDS	\$0	\$6,242

**Sec. J-2. PL 2011, c. 448, §3** is amended to read:

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

**CORRECTIONS, STATE BOARD OF State Board of Corrections Investment Fund ~~Z075~~ Z087**

Initiative: Provides funds to the State Board of Corrections for the costs associated with establishing a new Class E offense.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$3,132
<hr/>		
GENERAL FUND TOTAL	\$0	\$3,132

**Sec. J-3. PL 2011, c. 455, §3** is amended to read:

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

**CORRECTIONS, STATE BOARD OF State Board of Corrections Investment Fund ~~Z075~~ Z087**

Initiative: Provides funds for the State Board of Corrections for an anticipated increase in county jail costs.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$3,132
<hr/>		
GENERAL FUND TOTAL	\$0	\$3,132

**PART K**

**Sec. K-1. 5 MRSA §1667-B, sub-§§3 and 4,** as enacted by PL 2005, c. 12, Pt. T, §7, are amended to read:

**3. Legislative review.** Allotment Excluding the State - Municipal Revenue Sharing program, Other Special Revenue Funds account, the Disproportionate Tax Burden Fund program, Other Special Revenue Funds account in the Office of the Treasurer of State and accounts when allotting funds to pay death benefits pursuant to Title 25, chapter 195-A, allotment of the funds under subsection 1 is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs;

**4. 30-day wait.** Allotment Excluding the State - Municipal Revenue Sharing program, Other Special Revenue Funds account, the Disproportionate Tax Burden Fund program, Other Special Revenue Funds account in the Office of the Treasurer of State and accounts when allotting funds to pay death benefits pursuant to Title 25, chapter 195-A, allotment of the funds under subsection 1 does not take effect until 30 days after the approval by the Governor; and

**PART L**

**Sec. L-1. 5 MRSA §1710-F, sub-§2,** as amended by PL 2009, c. 461, §1, is further amended to read:

**2. Biennial revenue projections.** The committee shall submit recommendations for state revenue projections for the next 2 fiscal biennia and analyze revenue projections for the current fiscal biennium, which must be approved by a majority of the committee members. No later than December 1st of each even-numbered year, the committee shall submit to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the State Budget Officer a report that presents the analyses, findings and recommendations for General Fund and Highway Fund revenue projections for the next 2 fiscal biennia. In its report the committee shall fully describe the methodology employed in reaching its recommendations. Revenue projections for other funds

of the State may be included in the report at the discretion of the committee. ~~Revenue projections for the General Fund may not include revenue that accrues pursuant to Title 30-A, section 5250-I, subsection 4 and is deposited into the Pine Tree Development Zone Reserve Fund pursuant to Title 30-A, section 5250-J, subsection 4-B that would not have accrued to the State but for the availability of Pine Tree Development Zone benefits as stated in Title 30-A, section 5250-I, subsection 17, paragraph A.~~

**Sec. L-2. 30-A MRSA §5250-J, sub-§4-B,** as enacted by PL 2009, c. 461, §20, is repealed.

**Sec. L-3. 36 MRSA §2016, sub-§6,** as amended by PL 2009, c. 461, §25, is further amended to read:

**6. Payment of claims.** The State Tax Assessor shall determine the benefit for each claimant under this section and ~~certify to the State Controller the amount to be transferred from the Pine Tree Development Zone Reserve Fund, established pursuant to Title 30-A, section 5250-J, subsection 4-B, to the Pine Tree Development Zone reimbursement reserve account established, maintained and administered by the State Controller from General Fund undedicated revenue within the sales tax category.~~ The assessor shall pay the certified amounts to each approved applicant qualifying for the benefit under this section within 30 days after receipt of a properly completed claim. Interest is not allowed on any payment made to a claimant pursuant to this section.

#### PART M

**Sec. M-1. 22 MRSA §1511, sub-§13** is enacted to read:

**13. Attrition adjustment.** For state fiscal years beginning on or after July 1, 2012, the State Budget Officer is authorized to adjust allocations to address shortfalls that occur as a direct result of Personal Services allocation reductions for projected vacancies. Accrued savings generated from vacant positions within a Fund for a Healthy Maine account's allocation for Personal Services or available balances in the Fund for a Healthy Maine program within the Department of Administrative and Financial Services may be transferred by financial order to offset Personal Services shortfalls in other Fund for a Healthy Maine accounts except that these transfers are subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

#### PART N

**Sec. N-1. PL 2009, c. 571, Pt. KKK, §1** is amended to read:

**Sec. KKK-1. Debt service.** For the 2012-2013 biennial budget, the baseline appropriation for the Debt Service - UMS program within the University of Maine System is increased by ~~\$850,000~~ \$767,950

per year for debt service costs to support a 10-year revenue bond to bring facilities at the University of Maine into compliance and remove asbestos and mercury contamination, with the first year of debt service starting in fiscal year ~~2011-12~~ 2012-13.

#### PART O

**Sec. O-1. 5 MRSA §1532, sub-§8** is enacted to read:

**8. Emergency management assistance compact transfers.** The State Controller may transfer up to \$1,000,000 from the stabilization fund to the Military Training and Operations program within the Department of Defense, Veterans and Emergency Management based on amounts certified by the Commissioner of Defense, Veterans and Emergency Management to be necessary to fulfill the responsibilities of the department under the emergency management assistance compact under Title 37-B, section 921 or the International Emergency Management Assistance Compact under Title 37-B, section 935. These transfers are authorized only if the Legislature has adjourned sine die and only to the extent needed to meet the obligations of the department within that fiscal year that are in excess of available appropriations and any other funding sources. These funds must be allotted by financial order upon the recommendation of the State Budget Officer and approval of the Governor. Any amounts transferred from the stabilization fund must be returned to the stabilization fund upon receipt of reimbursement from the affected state or province.

#### PART P

**Sec. P-1. 35-A MRSA §1701, sub-§3,** as amended by PL 2001, c. 476, §1, is further amended to read:

**3. Salaries of certain employees.** The salaries of the following employees of the Public Advocate are within the following salary ranges:

- A. Deputy Public Advocate, salary range 53;
- B. Senior Counsel, salary range 36;
- ~~C. Economic Analyst, salary range 36;~~
- D. Research Assistant, salary range 30;
- E. Business Services Manager, salary range 26; and
- F. Special Assistant to the Public Advocate, salary range 20.

The employees listed in this subsection serve at the pleasure of the Public Advocate and are confidential employees. All other employees of the Public Advocate are subject to the Civil Service Law.

~~The Public Advocate may, at the Public Advocate's discretion, substitute an Economic Analyst position at salary range 36 for any vacant Senior Counsel posi-~~

~~tion.~~ The Public Advocate ~~also~~ may compensate one or more Senior Counsels at salary range 37 if, in the judgment of the Public Advocate, an increase is necessary to provide competitive salary levels.

### PART Q

**Sec. Q-1. 5 MRSA §1591, sub-§5** is enacted to read:

**5. Executive Department.** The Executive Department shall carry forward any General Fund balances remaining in the Administration - Executive - Governor's Office program, the Blaine House program, the Governor's Office of Communications program, the Office of Policy and Management program and the Governor's Energy Office program at the end of any fiscal year for use in the next fiscal year.

### PART R

**Sec. R-1. 22 MRSA §4305, sub-§3-C** is enacted to read:

**3-C. Maximum level of assistance from July 1, 2012 to June 30, 2013.** Notwithstanding subsection 3-A or 3-B, for the period from July 1, 2012 to June 30, 2013, the maximum level of assistance is 90% of the maximum level of assistance in effect on April 1, 2012.

**Sec. R-2. 22 MRSA §4308, sub-§§1-A and 1-B** are enacted to read:

**1-A. Limit on housing assistance.** Except as provided in subsections 1-B and 2, housing assistance provided pursuant to this chapter is limited to a maximum of 9 months during the period from July 1, 2012 to June 30, 2013.

**1-B. Extension of housing assistance due to hardship.** An applicant is eligible for housing assistance under this chapter beyond the limit established in subsection 1-A if the applicant has a severe and persistent mental or physical condition warranting such an extension or has an application for assistance pending with the federal Social Security Administration.

**Sec. R-3. Temporary reduction in 90% general assistance reimbursement.** Notwithstanding the Maine Revised Statutes, Title 22, section 4311, subsection 1, for the period from July 1, 2012 to June 30, 2013, the state reimbursement rate pursuant to the Maine Revised Statutes, Title 22, section 4311, subsection 1 is reduced to 85% for a municipality that incurs net general assistance costs in a fiscal year in excess of .0003 of that municipality's most recent state valuation.

**Sec. R-4. General assistance working group.** The Commissioner of Health and Human Services or the commissioner's designee shall convene a working group to review and make recommendations related to the general assistance program under the Maine Revised Statutes, Title 22, chapter 1161,

referred to in this section as "the general assistance program." The commissioner or the commissioner's designee shall convene the first meeting of the working group no later than June 1, 2012.

**1. Members.** The working group consists of 9 members, 7 of whom are voting members and 2 of whom are nonvoting members.

A. The commissioner, or the commissioner's designee, serves as a voting member of the working group. The commissioner shall appoint the following 6 additional voting members: the director of the Department of Health and Human Services, Office of Family Independence; one member of a statewide organization representing Maine municipalities; one member of a statewide organization representing Maine municipal welfare directors; one member from a municipality in the State that has a program to assist recipients of general assistance in applying for federal supplemental security income benefits; one member of an advocacy organization representing the interests of recipients of general assistance with expertise in policy and legal matters related to public benefit programs; and the executive director of the Maine State Housing Authority or the executive director's designee.

B. The commissioner shall appoint the following 2 nonvoting members of the working group: one person with knowledge of cash or medical assistance benefits provided by the United States Department of Veterans Affairs; and one person with knowledge of affordable housing programs and other opportunities to increase the supply of affordable housing in Maine.

The working group may create subgroups to work on specific issues or initiatives and may include individuals who are not working group members.

**2. Duties.** In developing its recommendations under this section, the working group shall:

A. Review and propose suggestions for electronic data exchange between municipalities and the Department of Health and Human Services to increase efficiency in verifying general assistance program eligibility and improving program integrity;

B. Examine the structure of the general assistance program and recommend methods and standards to improve accountability, cost-effectiveness and uniformity in the program;

C. Review the role of the general assistance program in funding homeless shelter services and develop recommendations regarding whether the Department of Health and Human Services or the Maine State Housing Authority is the more appropriate state agency to operate and administer

the general assistance program and to operate and administer housing assistance benefits under the general assistance program;

D. Evaluate the appropriateness and the necessity of limiting general assistance benefits to persons receiving Temporary Assistance for Needy Families program benefits and persons under sanction in that program;

E. Review the pilot program established by the commissioner pursuant to this Part and make any recommendations necessary to improve the success of the pilot program; and

F. Develop proposed legislation designed to achieve \$500,000 in General Fund savings from January 1, 2013 to June 30, 2013 and improve the efficiency, effectiveness, uniformity and financial accountability of the general assistance program.

**3. Report.** No later than December 1, 2012, the Commissioner of Health and Human Services shall submit the report and recommendations developed pursuant to this section, including any suggested legislation, to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services.

**Sec. R-5. General assistance pilot program.** The Commissioner of Health and Human Services shall establish a pilot program designed to further the objectives of the working group established in this Part and to reduce General Fund costs and costs of the general assistance program under the Maine Revised Statutes, Title 22, chapter 1161 by maximizing access to federal assistance programs for which applicants for or recipients of general assistance may be eligible. Under the pilot program, the 7 limited-period Family Independence Specialist positions established in Part A shall work to maximize and expedite the award of federal supplemental security income benefits for recipients of general assistance and to identify and assist veterans who receive assistance through programs administered by the Department of Health and Human Services, Office for Family Independence who may be eligible for cash or medical assistance from the United States Department of Veterans Affairs to obtain those benefits. On or before June 30, 2013, the commissioner shall submit a report regarding the operations and effect of the pilot program to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and to the joint standing committee of the Legislature having jurisdiction over health and human services matters.

#### PART S

**Sec. S-1. 22 MRSA §3762, sub-§8, ¶D,** as enacted by PL 2007, c. 539, Pt. XX, §2, is repealed.

**Sec. S-2. 22 MRSA §3762, sub-§8, ¶F** is enacted to read:

F. The department may provide limited transitional food benefits to meet the needs of food supplement benefit recipients living with one or more dependent children under 18 years of age who are working at least 30 hours per week or who are working at least 20 hours per week if one or more dependent child is under 6 years of age. The benefit may not exceed \$50 per month per family.

#### PART T

**Sec. T-1. 22 MRSA §1708, sub-§4,** as enacted by PL 1991, c. 622, Pt. M, §8 and affected by §9, is repealed.

#### PART U

**Sec. U-1. 22 MRSA §3273, sub-§10** is enacted to read:

**10. Balances of funds not to lapse.** Any balances of funds appropriated for the program of state supplemental income benefits authorized under sections 3271 and 3274 may not lapse but must be carried forward from year to year to be expended for the same purpose.

#### PART V

**Sec. V-1. 5 MRSA §1591, sub-§2,** as amended by PL 2011, c. 380, Pt. UUU, §§1 to 3, is further amended to read:

**2. Department of Health and Human Services.** The Department of Health and Human Services must apply:

A. Any balance remaining in the accounts of the Department of Health and Human Services, Bureau of Elder and Adult Services appropriated for the purposes of homemaker or home-based care services at the end of any fiscal year to be carried forward for use by either program in the next fiscal year;

B. Any balance remaining in the Traumatic Brain Injury Seed program, General Fund account at the end of any fiscal year to be carried forward for use in the next fiscal year; ~~and~~

C. Any balance remaining in the General Fund account of the Department of Health and Human Services, Bureau of Medical Services appropriated for All Other line category expenditures at the end of any fiscal year to be carried forward for use in the next fiscal year; ~~and~~

D. Any balance remaining in the accounts of the Department of Health and Human Services, Mental Health Services - Community program appropriated for the purposes of rental assistance and shelter services at the end of any fiscal year to be carried forward for use in the next fiscal year for the same purpose.

**PART W**

**Sec. W-1. 4 MRSA §1, 4th ¶**, as enacted by PL 2009, c. 213, Pt. QQ, §1, is amended to read:

The Chief Justice, as head of the judicial branch, shall prepare the budget for the judicial branch. The Chief Justice may approve financial orders for transfers and revisions of and increases to allotment within the judicial branch in accordance with procedures for financial orders established in the executive branch. The Chief Justice shall provide a copy of each approved financial order to the Department of Administrative and Financial Services, Bureau of the Budget and the Office of Fiscal and Program Review.

**PART X**

**Sec. X-1. Personal Services balances authorized to carry; Department of Corrections.** Notwithstanding any other provision of law, the Department of Corrections is authorized to carry all fiscal year 2011-12 year-end balances in the Personal Services line category of General Fund accounts after all financial commitments and budgetary adjustments have been made to fiscal year 2012-13 to the Capital Expenditures line category in the Capital Construction/Repairs/Improvements - Corrections program, General Fund account in the Department of Corrections to be used for the purpose of making capital improvements to correctional facilities.

**PART Y**

**Sec. Y-1. Transfer of funds; Department of Public Safety; Criminal Justice Academy program.** Notwithstanding any other provision of law, the State Controller shall transfer \$600,000 from the unappropriated surplus of the General Fund to the Criminal Justice Academy program, Other Special Revenue Funds account within the Department of Public Safety no later than June 30, 2012.

**PART Z**

**Sec. Z-1. Transfer of funds; Department of Public Safety, Fire Marshal - Office of account.** Notwithstanding any other provision of law, the State Controller shall transfer \$700,000 from the unappropriated surplus of the General Fund to the Fire Marshal - Office of program, Other Special Revenue Funds account within the Department of Public Safety no later than June 30, 2012.

**PART AA**

**Sec. AA-1. Transfer of funds; Commission on Governmental Ethics and Election Practices program.** Notwithstanding any other provision of law, the State Controller shall transfer \$1,300,000 on or before June 30, 2012 and \$950,000 on or before June 30, 2013 from the Commission on Governmental Ethics and Election Practices program, Other Special

Revenue Funds account to the unappropriated surplus of the General Fund.

**PART BB**

**Sec. BB-1. Department of Labor; lapsed balances.** Notwithstanding any other provision of law, \$451,183 of unencumbered balance forward from the Department of Labor, Governor's Training Initiative Program, General Fund account, All Other line category, lapses to the General Fund no later than June 30, 2012.

**PART CC**

**Sec. CC-1. 2 MRSA §6, sub-§3**, as amended by PL 2011, c. 380, Pt. WW, §1, is further amended to read:

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

- Director, Bureau of General Services;
- Director, Bureau of Alcoholic Beverages and Lottery Operations;
- State Budget Officer;
- State Controller;
- Director of the Bureau of Forestry;
- Director, ~~State Planning Office~~ Governor's Office of Policy and Management;
- Director, Energy Resources Office;
- Director of Human Resources;
- Director, Bureau of Parks and Lands;
- Director of Econometric Research; and
- Director of the Governor's Office of Communications.

**Sec. CC-2. 3 MRSA §959, sub-§1, ¶M**, as amended by PL 2003, c. 600, §1, is further amended to read:

M. The joint standing committee of the Legislature having jurisdiction over state and local government matters shall use the following list as a guideline for scheduling reviews:

- (1) Capitol Planning Commission in 2011;
- (1-A) Maine Governmental Facilities Authority in 2005;
- (2) State Civil Service Appeals Board in 2005;
- (3) State Claims Commission in 2005;
- (4) Maine Municipal Bond Bank in 2007;
- (5) Office of Treasurer of State in 2007;

(6) Department of Administrative and Financial Services, except for the Bureau of Revenue Services, in 2011; and

(7) Department of the Secretary of State, except for the Bureau of Motor Vehicles, in 2011; and

(9) ~~State Planning Office, except for the Land for Maine's Future Board, in 2007.~~

**Sec. CC-3. 5 MRSA c. 311**, as amended, is repealed.

**Sec. CC-4. Effective date.** This Part takes effect July 1, 2012.

#### PART DD

**Sec. DD-1. 5 MRSA §1531, sub-§1**, as enacted by PL 2005, c. 2, Pt. A, §5 and affected by §14, is amended to read:

**1. Average population growth.** "Average population growth" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in population from July 1st of each year and estimated by the United States Department of Commerce, Bureau of Census as adjusted and maintained by the Executive Department, State Planning Office by the Governor's Office of Policy and Management.

**Sec. DD-2. 5 MRSA §1531, sub-§2**, as amended by PL 2005, c. 621, §1, is further amended to read:

**2. Average real personal income growth.** "Average real personal income growth" means the average for the prior 10 calendar years, ending with the most recent calendar year for which data is available, of the percent change in personal income in this State, as estimated by the United States Department of Commerce, Bureau of Economic Analysis, less the percent change in the Consumer Price Index for the calendar year. For purposes of this subsection, "Consumer Price Index" has the same meaning as in Title 36, section 5402, subsection 1. The average real personal income growth is determined by October 1st, annually, by the Director of the State Planning Office within the Executive Department Governor's Office of Policy and Management.

**Sec. DD-3. 5 MRSA §1710-D**, as enacted by PL 1995, c. 368, Pt. J, §1, is amended to read:

#### **§1710-D. Staffing**

The commission may receive staff support from the State Planning Office Governor's Office of Policy and Management.

**Sec. DD-4. 5 MRSA §1710-I**, as amended by PL 1997, c. 526, §14, is further amended to read:

#### **§1710-I. Staffing**

The committee may receive staff assistance from the Bureau of the Budget, the ~~State Planning Office~~ Governor's Office of Policy and Management, the Bureau of Revenue Services and, at the discretion of the Legislature, the Office of Fiscal and Program Review. The committee may also utilize other professionals having revenue forecasting, economic and fiscal expertise.

**Sec. DD-5. 5 MRSA c. 310** is enacted to read:

#### **CHAPTER 310**

#### **GOVERNOR'S OFFICE OF POLICY AND MANAGEMENT**

#### **§3101. Definitions**

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

**1. Director.** "Director" means the Director of the Governor's Office of Policy and Management established by section 3102.

**2. Office.** "Office" means the Governor's Office of Policy and Management established by section 3102.

#### **§3102. Office established; purpose**

The Governor's Office of Policy and Management is established in the Executive Department to facilitate achievement of long-term state economic goals and objectives and identification and implementation of opportunities to improve the efficiency and effectiveness of the performance of the functions of and delivery of services by State Government.

#### **§3103. Director**

The Director of the Governor's Office of Policy and Management is appointed by the Governor and serves at the pleasure of the Governor.

#### **§3104. Powers and duties**

The director is authorized to exercise the powers and is responsible for fulfillment of the duties of the office provided for by this section.

#### **1. Duties.** The director shall:

A. Appoint, remove and prescribe the duties of staff of the office as necessary to implement the duties of the office. The director is authorized to hire as unclassified employees professional personnel competent by education, training and experience in such areas as economics, law, accounting and public policy. The director is authorized to hire as classified employees other personnel, who are subject to the Civil Service Law and personnel policies established for state em-

ployees generally, as required to support implementation of the duties of the office;

B. Prepare long-range economic projections to ensure that projected available state financial resources are commensurate with projected state expenditures needed to meet long-term state economic goals and policies;

C. Analyze the structure and functions of State Government and identify options and develop recommendations for consideration by the Governor regarding improvement of the efficiency and effectiveness of governmental functions and programs and delivery of governmental services. In carrying out duties under this paragraph, the director may:

(1) Prepare strategic and long-range plans and goals for reform of State Government through creation of efficiencies and streamlining of operations;

(2) Establish metrics for and further develop systems for ongoing evaluation of the efficiency and effectiveness of state programs and delivery of state services; and

(3) Review and determine whether there is continuing need for state programs, boards and commissions, in part through consideration of whether their public benefit equals or exceeds their cost;

D. Recommend governmentwide policies to improve financial management for consideration by the Governor. In carrying out duties under this paragraph, the director may review state agencies' proposals for funding from public and private entities, including the Federal Government, for consistency with pertinent state law and fiscal policy;

E. Conduct studies and continuing economic analyses of the state economy, including economic forecasting, and collect, collate and analyze all pertinent data and statistics relating to those studies and analyses to assist the Governor, the Legislature and the various state departments in formulating economic goals and programs and policies to achieve such goals. The office shall make these data and statistics available to the Legislature upon request. All state agencies shall cooperate with the office regarding implementation of the provisions of this paragraph. In implementing this paragraph, the office may use secondary data made available to the office by other state agencies or other organizations;

F. At the Governor's request, advise on the risks, costs, benefits and effects on job creation and job retention in the State of proposed legislation or other policy initiatives;

G. Conduct research, reviews and studies to fulfill the office's duties as the director determines appropriate;

H. Facilitate intergovernmental and intragovernmental coordination, relations and communications and provide general coordination and review of plans in functional areas of State Government as may be necessary for receipt of federal funds; and

I. Perform other duties related to the purposes of the office under section 3102 as assigned by the Governor or as directed by statute.

**2. Powers.** The director may, in connection with the performance of the duties of the office, apply to the Superior Court for a subpoena to compel the attendance of witnesses and the production of books, papers, records and documents of individuals, firms, associations and corporations and all officers, boards, commissions and departments of State Government. The court, before issuing the subpoena, shall provide adequate opportunity for the director and the party against whom the subpoena is requested to be heard. The court may issue the subpoena only on a showing by the director and specific findings of fact by the court that the attendance of the witness or the production of the books, papers, records or documents is reasonably necessary to carry out specific duties of the office that are related to the operations and finances of State Government and that the director has made reasonable efforts to secure the attendance or the books, papers, records or documents without recourse to compulsory process. Any materials or information turned over to the director that is of a confidential or proprietary nature is confidential under section 3108.

#### **§3105. Acceptance and administration of funds**

The office may accept, administer and expend funds, including but not limited to funds from the Federal Government or from private sources, for purposes consistent with this chapter. The director shall provide a report of the amount of any outside funding received from private sources and its designated purpose to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than 30 days after receiving the funds.

#### **§3106. Contracts**

The office may contract with public and private entities for research and analysis and other services as the director determines necessary to address the office's duties under this chapter. The director shall provide a report of the contracts awarded to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than 30 days after awarding the contract.

**§3107. Governmental cooperation; temporary re-assignment of governmental employees**

All departments, agencies, authorities, boards, commissions and other instrumentalities of the State shall, at the director's request, assist the office in the gathering of information, reports and data that relate to the performance of the duties of the office. Subject to approval by the Governor, at the request of the director a state agency shall, as provided in chapter 309, assign qualified personnel to the office for a period of up to 6 months to assist the office in the performance of its duties.

**§3108. Confidential or proprietary information**

**1. Access to records.** Upon the request of the director, a department, commission or agency shall provide access to records necessary to carry out the duties of the office.

**2. Confidential information available to the director.** Notwithstanding any state law relating to the confidentiality of information, all information in the files of any department, commission or agency of the State must be made available when necessary to the director in connection with the performance of the duties of the office related to the operations and finances of State Government.

**3. Consultation; limited access.** Before beginning a study, a review or research that may require access to records containing confidential or privileged information, the director shall consult with representatives of the department, commission or agency to discuss methods of identifying and protecting privileged or confidential information in those records. During that consultation, the department, commission or agency shall inform the director of all standards and procedures set forth in department, commission or agency policies or agreements to protect information considered by the department, commission or agency to be confidential or privileged. The director shall limit access to information that is privileged or confidential by appropriate methods, which may include examining records without copying or removing them from the department, commission or agency.

**4. Removal of identifying information.** In making information available to the director, the department, commission or agency that is subject to the study, review or research or that provides the information may remove information that identifies individuals or institutions to protect privileged or confidential information, as long as the information necessary for the director to fulfill the duties of the office is disclosed to the director.

**5. Confidentiality, privilege apply to director.** Documentary or other information obtained by the director during the course of a study, review or research is privileged or confidential to the same extent under law that that information would be privileged or

confidential in the possession of the department, commission or agency providing the information. Any privilege or statutory provision, including penalties, concerning the confidentiality or obligation not to disclose information in the possession of any department, commission or agency or their officers or employees applies equally to the director. Privileged or confidential information obtained by the director during the course of a study, review or research may be disclosed only as provided by law and with the agreement of the department, commission or agency that provided the information.

**6. Compliance with policy.** If the director accesses information classified as privileged or confidential pursuant to department, commission or agency policy or procedures or by agreement, the director shall comply with the department, commission or agency standards or procedures for handling that information.

**Sec. DD-6. 5 MRSA §13056, sub-§3,** as enacted by PL 1987, c. 534, Pt. A, §§17 and 19, is amended to read:

**3. Conduct planning and research.** Conduct planning, research and analysis for department needs, but not macroeconomic forecasting, which ~~shall be~~ is the responsibility of the ~~State Planning Office~~ Governor's Office of Policy and Management. The department shall gather, maintain and have access to all economic and other information necessary to the performance of its duties;

**Sec. DD-7. 5 MRSA §13120-Q, first ¶,** as enacted by PL 2001, c. 703, §6, is amended to read:

The authority, with the advice of the department, the Department of Labor, ~~the State Planning Office~~ and such other agencies it determines appropriate, may waive the requirements of section 13120-P, subsection 2, paragraph E and section 13120-P, subsection 3, paragraph E if the municipality has experienced a historical lack of private investment and it is reasonably expected that private investment will not be available to assist with project financing and one of the following conditions is met:

**Sec. DD-8. 10 MRSA §363, sub-§2-A,** as amended by PL 1999, c. 728, §2, is further amended to read:

**2-A. Recommendation of Governor and issuers.** At any time action of the Legislature under subsection 1-A is necessary or desirable, the Governor shall recommend to the appropriate committee of the Legislature a proposed allocation or reallocation of all or part of the state ceiling. To assist the Governor in making a recommendation of proposed allocations of the state ceiling on private activity bonds, the group of 7 representatives described in subsection 1-A shall make a recommendation regarding allocation or reallocation of the state ceiling. In order to assist the

group in making its recommendation and to assist the Governor and the Legislature, the ~~State Planning Office~~ Department of Administrative and Financial Services, in consultation with the Governor's Office of Policy and Management, shall prepare an annual analysis of the State's economic outlook, prevailing interest rate forecasts related to tax-exempt financing by the issuers specifically identified in subsections 4 to 8, the availability to those issuers of alternative financing from sources that do not require an allocation of the state ceiling and the relationship of these factors and various public policy considerations to the allocation or reallocation of the state ceiling. In recommending any allocation or reallocation of the state ceiling to the Legislature, the Governor shall consider the requests and recommendations of those issuers of bonds within the State designated in this section, the recommendations of the group of representatives described in subsection 1-A and the annual analysis of the ~~State Planning Office~~ Department of Administrative and Financial Services.

**Sec. DD-9. 12 MRSA §8876, sub-§2**, as amended by PL 1997, c. 720, §9, is further amended to read:

**2. Future demand.** Project future demand for forest resources based on a common economic forecast developed by the ~~State Planning Office~~ Governor's Office of Policy and Management and on other appropriate economic projections;

**Sec. DD-10. 26 MRSA §3**, as amended by PL 1997, c. 132, §1, is further amended to read:

**§3. Records confidential**

All information and reports recorded by the director or the director's authorized agents under this Title are confidential, and no names of individuals, firms or corporations may be used in any reports of the director nor made available for public inspection. The director may release information and reports to other government agencies if the director believes that the information will serve to further the protection of the public or assist in the enforcement of local, state and federal laws. The director may also release information and reports to the public pertaining to final bureau action taken under the authority of this Title. Records pertaining to the work force, employment patterns, wage rates, poverty and low-income patterns, economically distressed communities and regions and other similar information and data must be made available to the Department of Economic and Community Development and to the ~~State Planning Office~~ Governor's Office of Policy and Management for the purposes of analysis and evaluation, measuring and monitoring poverty and economic and social conditions throughout the State and to promote economic development with the understanding that the confidentiality of the information will be maintained.

**Sec. DD-11. 30-A MRSA §5652, sub-§2**, as enacted by PL 2007, c. 405, §2, is amended to read:

**2. Funding municipal education foundations.**

A municipality may accept endowment funds from citizens, estates, municipal contributions and bond money to fund a municipal education foundation to support local education pursuant to section 5724, subsection 10. The foundation may not spend the funds until it meets certain growth standards recommended by the ~~Executive Department, State Planning Office~~ Department of Administrative and Financial Services.

**Sec. DD-12. 30-A MRSA §5724, sub-§10**, as enacted by PL 2007, c. 405, §3, is amended to read:

**10. Municipal education foundations.** A municipal education foundation is established with the assistance of the ~~Executive Department, State Planning Office~~ Department of Administrative and Financial Services and must contain the following provisions.

A. The endowment of a municipal education foundation is funded by contributions by citizens, estates, municipalities and bond money if the foundation meets the ~~Executive Department, State Planning Office~~ standards pursuant to section 5652, subsection 2.

B. Trustees of a municipal education foundation must be citizens of the municipality and contain at least one member who is a teacher or administrator in the municipality's education system to be a liaison between the school system and the municipal education foundation.

**Sec. DD-13. 30-A MRSA §5903, sub-§6-A**, as enacted by PL 1989, c. 48, §§14 and 31, is amended to read:

**6-A. Median household income.** "Median household income" means the income computed based on the most current census information available, as provided by the ~~State Planning Office~~ Governor's Office of Policy and Management.

**Sec. DD-14. 35-A MRSA §3454, first ¶**, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

In making findings pursuant to Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3, the primary siting authority shall presume that an expedited wind energy development provides energy and emissions-related benefits described in section 3402 and shall make additional findings regarding other tangible benefits provided by the development. The Department of Labor, the ~~Executive Department, State Planning Office~~ Governor's Office of Policy and Management, the Governor's Energy Office and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.

**Sec. DD-15. 35-A MRSA §3454, sub-§5**, as enacted by PL 2009, c. 642, Pt. A, §7, is amended to read:

**5. Promoting economic development and resource conservation; assistance to host communities.** To the extent practicable within existing resources, the Department of Economic and Community Development, the Governor's Energy Office and the Executive Department, State Planning Office, Governor's Office of Policy and Management shall provide, upon the request of a host community, assistance for the purpose of helping the host community maximize the economic development and resource conservation benefits from tax payments and payments made pursuant to a community benefit agreement or a community benefits package in connection with expedited wind energy developments. As part of this assistance, the department and the ~~office~~ Department of Economic and Community Development shall support host communities in identifying additional funding and developing regional economic and natural resource conservation strategies.

**Sec. DD-16. 36 MRSA §6759**, as enacted by PL 1995, c. 669, §5, is amended to read:

**§6759. Program administration**

The commissioner shall administer this Act. The commissioner and the State Tax Assessor may adopt rules pursuant to the Maine Administrative Procedure Act for implementation of the program, including, but not limited to, rules for determining and certifying eligibility. The commissioner may also by rule establish fees, including fees payable to the State Tax Assessor ~~and the State Planning Office~~ for obligations under this chapter. Any fees collected pursuant to this chapter must be deposited into a special revenue account administered by the State Tax Assessor and those fees may be used only to defray the actual costs of administering this Act.

**Sec. DD-17. 36 MRSA §7302**, as enacted by PL 2005, c. 2, Pt. H, §2, is amended to read:

**§7302. Progress reporting and data**

**1. Assessment and report.** The ~~State Planning Office~~ Governor's Office of Policy and Management shall separately assess and report on the progress made by the State, municipalities, counties and school administrative units, respectively, in achieving the tax burden reduction goals established in section 7301.

**2. Indicators; annual report.** With reference to Title 5, chapter 142; Title 20-A, section 15671, subsection 1; and Title 30-A, sections 706-A and 5721-A, the ~~State Planning Office~~ Governor's Office of Policy and Management shall develop and apply specific, quantifiable performance indicators against which the progress in achieving the tax burden reduction goals established in section 7301 can be measured. On

January 15, ~~2006~~ 2013 and annually thereafter, the ~~State Planning Office~~ Governor's Office of Policy and Management shall report to the Governor and to the joint standing committee of the Legislature having jurisdiction over taxation matters on the progress made by the State, counties, municipalities and school administrative units, respectively, in achieving the tax burden reduction goals. The report required by this subsection must be comprised of 4 distinct parts reporting on the progress made by the State, municipalities, counties and school administrative units, respectively. The ~~State Planning Office~~ Governor's Office of Policy and Management may also include in its report recommendations on alternative strategies to achieve the tax burden reduction goals established in section 7301 that reflect the best practices in this State, other states and other countries.

**3. Data.** The ~~State Planning Office~~ Governor's Office of Policy and Management shall annually collect and analyze data regarding spending and revenues for municipalities, counties and school administrative units. The ~~State Planning Office~~ Governor's Office of Policy and Management shall submit an annual report that provides information and analysis regarding government spending and revenue behavior and trends to the Governor and the joint standing committee of the Legislature having jurisdiction over taxation matters. The report must include information that identifies spending and revenue behavior by individual municipalities, counties and school administrative units. Upon request, other departments of State Government shall cooperate and assist the ~~State Planning Office~~ Governor's Office of Policy and Management in the preparation of the report.

**Sec. DD-18. 38 MRSA §484, sub-§10**, as amended by PL 2009, c. 615, Pt. E, §18, is further amended to read:

**10. Special provisions; wind energy development or offshore wind power project.** In the case of a grid-scale wind energy development, or an offshore wind power project with an aggregate generating capacity of 3 megawatts or more, the proposed generating facilities, as defined in Title 35-A, section 3451, subsection 5:

- A. Will be designed and sited to avoid unreasonable adverse shadow flicker effects;
- B. Will be constructed with setbacks adequate to protect public safety. In making a finding pursuant to this paragraph, the department shall consider the recommendation of a professional, licensed civil engineer as well as any applicable setback recommended by a manufacturer of the generating facilities; and
- C. Will provide significant tangible benefits as determined pursuant to Title 35-A, section 3454,

if the development is an expedited wind energy development.

The Department of Labor, the ~~Executive Department, State Planning Office~~ Governor's Office of Policy and Management, the Governor's Energy Office and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.

For purposes of this subsection, "grid-scale wind energy development," "primary siting authority," "significant tangible benefits" and "expedited wind energy development" have the same meanings as in Title 35-A, section 3451.

**Sec. DD-19. Resolve 1997, c. 36, §1** is repealed.

**Sec. DD-20. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 5, Part 8, in the part headnote, the words "state planning" are amended to read "policy and management" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. DD-21. Initial recommendations.** No later than December 1, 2012, the Governor's Office of Policy and Management shall develop and recommend to the Governor and the Legislature changes in the structure, functions or operations of State Government to achieve General Fund savings of at least \$1,000,000 during fiscal year 2013-14 and at least \$1,000,000 during fiscal year 2014-15.

**Sec. DD-22. Creation of Governor's Office of Policy and Management; elimination of the Executive Department, State Planning Office; transition provisions.** The following transition provisions govern the creation of the Governor's Office of Policy and Management and the elimination of the Executive Department, State Planning Office.

1. The Governor's Office of Policy and Management, referred to in this section as "the office," is created as of May 1, 2012. The Governor shall appoint the Director of the Governor's Office of Policy and Management at any time on or after that date. The director shall organize the office, including creation of up to 4 temporary positions by financial order pursuant to this Act, to be hired on or after July 1, 2012. The director shall provide a report to the chairs of the Joint Standing Committee on Appropriations and Financial Affairs within 30 days of creating the temporary positions by financial order. Of the temporary positions created, only one of the positions may be an attorney position performing the usual and customary functions of an attorney admitted to the bar. The director shall submit a request to continue the positions in the biennial budget for 2014-2015.

2. The Executive Department, State Planning Office is eliminated on July 1, 2012. All transfers of Ex-

ecutive Department, State Planning Office responsibilities to the Governor's Office of Policy and Management under this Act are effective on July 1, 2012.

3. All records, property and equipment previously belonging to or allocated for the use of the Executive Department, State Planning Office that have not otherwise been provided for under this Act become the property of the Governor's Office of Policy and Management.

**Sec. DD-23. Transition provisions; economics and demographics matters.** The following provisions apply to the reassignment of duties, responsibilities and activities of the Executive Department, State Planning Office regarding economics and demographics.

1. Two authorized positions and incumbent personnel as of April 1, 2012 in the Executive Department, State Planning Office that are assigned to that office's economics and demographics program are transferred to the Governor's Office of Policy and Management effective July 1, 2012. These employees must retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

2. If so designated by the Governor, the Department of Labor is authorized to serve as the State Data Center for purposes of the State Data Center Program administered by the United States Department of Commerce, United States Census Bureau and to develop a memorandum of agreement with the bureau that outlines responsibilities of the department and bureau under the State Data Center Program.

**Sec. DD-24. Effective date.** Unless otherwise indicated, this Part takes effect May 1, 2012.

## PART EE

**Sec. EE-1. 5 MRSA §2003, sub-§2, ¶D,** as enacted by PL 2005, c. 12, Pt. SS, §16, is amended to read:

D. Eight representatives as follows:

- (1) A representative of the University of Maine System, appointed by the Chancellor of the University of Maine System;
- (2) Two representatives of a statewide association of municipalities, one representative appointed by the President of the Senate from nominations made by the association's governing body and one representative appointed by the Speaker of the House from nominations made by the association's governing body;
- (3) One representative of a statewide association of regional councils, appointed by the Speaker of the House from nominations made

by the ~~Executive Department, State Planning Office~~ Department of Conservation;

(4) One representative of a statewide association of counties, appointed by the Governor from nominations made by the association's governing body;

(5) One representative of a statewide association representing real estate and development interests, appointed by the President of the Senate;

(6) One representative of a statewide association representing environmental interests, appointed by the Speaker of the House; and

(7) One member representing public utilities, appointed by the Governor;

**Sec. EE-2. 5 MRSA §3331**, as amended by PL 2009, c. 652, Pt. A, §1, is repealed.

**Sec. EE-3. 5 MRSA Pt. 16-A**, as amended, is repealed.

**Sec. EE-4. 5 MRSA §12004-G, sub-§29-C**, as enacted by PL 2009, c. 483, §2, is repealed.

**Sec. EE-5. 5 MRSA §12004-I, sub-§24-F**, as enacted by PL 2001, c. 648, §1, is repealed.

**Sec. EE-6. 5 MRSA §12004-I, sub-§68-B**, as enacted by PL 2007, c. 192, §1, is repealed.

**Sec. EE-7. 5 MRSA §13056-D, sub-§2, ¶C**, as enacted by PL 2009, c. 414, Pt. G, §1 and affected by §5, is amended to read:

C. The ~~Director of the State Planning Office within the Executive Department~~ Commissioner of Conservation or the commissioner's designee; and

**Sec. EE-8. 5 MRSA §13083-T, sub-§2, ¶B**, as enacted by PL 2007, c. 39, Pt. F, §1 and affected by §2, is amended to read:

B. The Commissioner of Conservation; and

**Sec. EE-9. 5 MRSA §13083-T, sub-§2, ¶C**, as enacted by PL 2007, c. 39, Pt. F, §1 and affected by §2, is repealed.

**Sec. EE-10. 5 MRSA §13107, sub-§1**, as enacted by PL 2003, c. 673, Pt. M, §8, is amended to read:

**1. Outcome measures.** Establish outcome measures considered appropriate by public and private practitioners inside and outside of the State in the fields of research and development and economic development. Practitioners in this State must include, but are not limited to, a representative from the University of Maine System, a representative of the targeted technology sectors, a representative of the Executive Department, ~~State Planning Office~~ Governor's Office

of Policy and Management and representatives of other state agencies having economic development responsibility;

**Sec. EE-11. 5 MRSA §15302, sub-§3, ¶C**, as amended by PL 2005, c. 425, §19, is further amended to read:

C. The Director of the ~~State Planning Office~~ Governor's Office of Policy and Management or the director's designee is an ex officio nonvoting director.

**Sec. EE-12. 7 MRSA §214, sub-§3**, as amended by PL 2005, c. 382, Pt. C, §2, is further amended to read:

**3. Advisory committee.** The commissioner shall establish an advisory committee to discuss possibilities and review proposals for expanding purchases of local foodstuffs. The commissioner shall invite one or more representatives from each of the following agencies to serve on the advisory committee: the Department of Education; the Department of Marine Resources; the Department of Corrections; the Department of Administrative and Financial Services, Bureau of Purchases; ~~the Executive Department, State Planning Office~~; the Department of Health and Human Services; the University of Maine System; and the Maine Community College System.

**Sec. EE-13. 10 MRSA §918, sub-§3**, as corrected by RR 2003, c. 2, §14, is amended to read:

**3. Ex officio corporators.** Ex officio corporators consist of the heads of the major state departments and agencies and the Chancellor of the University of Maine System. State department and agency heads include the following:

Treasurer of State;

Director of the ~~State Planning Office~~ Governor's Office of Policy and Management;

Commissioner of Economic and Community Development;

Commissioner of Agriculture, Food and Rural Resources;

Commissioner of Professional and Financial Regulation;

Commissioner of Conservation;

Commissioner of Education;

Commissioner of Environmental Protection;

Commissioner of Administrative and Financial Services;

Commissioner of Health and Human Services;

Commissioner of Inland Fisheries and Wildlife;

Commissioner of Labor;

Commissioner of Marine Resources;  
 Commissioner of Transportation;  
 Chief Executive Officer of the Finance Authority of Maine;  
 Executive Director of the Maine Municipal Bond Bank; and  
 Executive Director of the Maine State Housing Authority.

**Sec. EE-14. 10 MRSA §945-B, sub-§1**, as enacted by PL 1995, c. 648, §5 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

**1. Members.** Members are the private individuals, partnerships, firms, corporations, governmental entities and other organizations who pay dues to the center. For the purposes of this chapter, members may include, but are not limited to, municipal and county government, councils of government, local and area development corporations, regional planning commissions, development districts, state agencies, higher educational facilities, including the components of the University of Maine System, the Maine Maritime Academy, private colleges and postsecondary schools and community colleges, and other public or quasi-public entities. The following 8 public organizations are granted membership by virtue of the State's contribution to the organization, are exempt from dues requirements and each is entitled to designate one individual to exercise its voting right: the Department of Agriculture, Food and Rural Resources, the ~~State Planning Office~~, Governor's Office of Policy and Management, the Finance Authority of Maine, the Department of Labor, the Department of Conservation, the Department of Marine Resources, the Department of Economic and Community Development and the Department of Transportation.

**Sec. EE-15. 10 MRSA §1063, sub-§2, ¶J**, as amended by PL 1989, c. 501, Pt. DD, §20, is further amended to read:

J. In the case of an energy generating system, an energy distribution system or an industrial-commercial project, any of which includes hydroelectric facilities deemed necessary for the production of electricity:

- (1) The Public Utilities Commission has certified that all required licenses have been issued or that none are required; and
- (2) The Director of the ~~State Planning Office~~ Governor's Office of Policy and Management has reviewed and commented upon the project proposal. The Director of the ~~State Planning Office~~ Governor's Office of Policy and Management shall make comments within 30 days after receipt of a notification and copy

of the project proposal from the authority. The authority shall take the comments into consideration in its consideration of the project; and

**Sec. EE-16. 12 MRSA §406**, as enacted by PL 1983, c. 458, §1, is repealed.

**Sec. EE-17. 12 MRSA §407**, as amended by PL 1989, c. 878, Pt. A, §29, is further amended to read:

**§407. Comprehensive river resource management plans**

The ~~State Planning Office~~ Department of Conservation, with assistance from the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Environmental Protection, the Governor's Energy Office and other state agencies as needed, shall develop, subject to the Maine Administrative Procedure Act, Title 5, chapter 375, a comprehensive river resource management plan for each watershed with a hydropower project licensed under the Federal Power Act or to be licensed under the Federal Power Act. These plans ~~shall~~ must provide a basis for state agency comments, recommendations and permitting decisions and ~~shall~~ at a minimum include, as applicable, minimum flows, impoundment level regimes, upstream and downstream fish passage, maintenance of aquatic habitat and habitat productivity, public access and recreational opportunities. These plans ~~shall~~ must update, complement and, after public notice, comment, and hearings in the watershed, be adopted as components of the State's comprehensive rivers management plan.

**Sec. EE-18. 26 MRSA §2006, sub-§7, ¶C**, as amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4 and amended by c. 114, §13; c. 545, §4; and c. 689, Pt. B, §6, is further amended to read:

C. The Governor shall appoint members to a technical support group to assist the council in the performance of its duties and responsibilities. The Governor shall appoint persons to serve on the technical support group for 3-year terms. The services provided by the State's various workforce organizations must be fairly represented in the technical support group with consideration given to a balance between rural and urban interests. Organizations with representation on the technical support group may include, but are not limited to:

- (1) The local areas;
- (2) Adult education;
- (3) School-to-work;
- (4) Providers that specialize in women's workforce issues;
- (5) Rehabilitation providers;

- (6) Welfare-to-work;
- (7) The University of Maine System;
- (8) The Maine Community College System;
- (9) Career and technical education; and
- (10) The Department of Economic and Community Development, the Department of Education, the Department of Health and Human Services, and the Department of Labor and the State Planning Office.

**Sec. EE-19. 30-A MRSA §2343**, as enacted by PL 2009, c. 483, §3, is repealed.

**Sec. EE-20. 30-A MRSA §6208, sub-§1, ¶A**, as enacted by PL 2005, c. 266, §2, is repealed.

**Sec. EE-21. 36 MRSA §305, sub-§2, ¶C**, as enacted by PL 1973, c. 620, §10, is amended to read:

C. Establishment of a coordinate grid system in connection with the ~~State Planning Office~~ Department of Conservation for the purpose of uniform identification of property parcels;

**Sec. EE-22. 38 MRSA §410-M, last ¶**, as enacted by PL 1997, c. 643, Pt. YY, §1, is repealed.

**Sec. EE-23. 38 MRSA §470-G**, as repealed and replaced by PL 2007, c. 619, §6, is repealed.

**Sec. EE-24. 38 MRSA §1803**, as enacted by PL 1985, c. 794, Pt. A, §11, is repealed.

**Sec. EE-25. 38 MRSA §2013, sub-§2, ¶A**, as enacted by PL 1997, c. 519, Pt. B, §1 and affected by §3, is repealed.

**Sec. EE-26. 38 MRSA §2123-C**, as enacted by PL 2007, c. 192, §4, is repealed.

**Sec. EE-27. PL 2011, c. 205, §4** is amended to read:

**Sec. 4. Statewide aquatic restoration plan for stream crossings.** The Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Transportation, in conjunction with the ~~Executive Department, State Planning Office~~ Department of Conservation and other interested stakeholders, shall work collaboratively to develop a statewide aquatic conservation and restoration strategy plan, referred to in this section as "the plan," designed to maintain and restore the ecological health of the State's aquatic ecosystems and focusing on maintaining and restoring dynamic ecological processes responsible for creating and sustaining habitats over broad landscapes as opposed to individual projects or small watersheds. The plan must improve upon best management practices for public and private roads by including consideration of the Department of Transportation's Waterway and Wildlife Crossing Policy and Design Guide, the Maine Interagency Stream

Connectivity Work Group's 2010 final report, Maine's Atlantic salmon recovery plan and any other technical, policy and financial information that may help the process. The plan must include, but not be limited to, using scientific data from stakeholders, establishing active restoration priorities, refining existing and proposing additional best management practices, reviewing statutory exemptions and regulatory standards to inform regulatory decision making, establishing performance measures, proposing funding alternatives for passive and active restoration, identifying gaps and overlaps with other pertinent issues such as climate change and flood management and providing for education and outreach. The Department of Environmental Protection, in cooperation with the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Transportation, shall present the final draft of the plan, which may include suggested legislation, to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than January 31, 2013. The committee may report out a bill to the First Regular Session of the 126th Legislature.

**Sec. EE-28. P&SL 1999, c. 58, §2, sub-§7** is repealed.

**Sec. EE-29. P&SL 1999, c. 58, §4, sub-§1, ¶B** is repealed.

**Sec. EE-30. Effective date.** This Part takes effect July 1, 2012.

## PART FF

**Sec. FF-1. 5 MRSA §13072, sub-§7**, as amended by PL 1995, c. 395, Pt. D, §7, is further amended to read:

**7. Oversee community development resources and programs.** The director shall oversee the implementation of community development programs to include at a minimum:

A. The Community Development Block Grant Program; and

G. Training and certification for municipal code enforcement officers under Title 30-A, chapter 187, subchapter 5.

**Sec. FF-2. 10 MRSA §9723, sub-§2**, as enacted by PL 2007, c. 699, §6, is amended to read:

**2. Training program standards; implementation.** The committee shall direct the training coordinator of the Bureau of Building Codes and Standards, established in Title 25, section 2372, to develop a training program for municipal building officials, local code enforcement officers and 3rd-party inspectors. The ~~Executive Department, State Planning Office~~ Department of Economic and Community Development, Office of Community Development, pursuant to Title 30-A, section 4451, subsection 3-A, shall implement

the training and certification program established under this chapter.

**Sec. FF-3. 25 MRSA §2374**, as amended by PL 2009, c. 213, Pt. M, §3, is further amended to read:

**§2374. Uniform Building Codes and Standards Fund**

The Uniform Building Codes and Standards Fund, referred to in this section as "the fund," is established within the Department of Public Safety to fund the activities of the bureau under this chapter and the activities of the board under Title 10, chapter 1103 and the ~~Executive Department, State Planning Office Department of Economic and Community Development, Office of Community Development~~ under Title 30-A, section 4451, subsection 3-A. Revenue for this fund is provided by the surcharge established by section 2450-A. The Department of Public Safety and the ~~Executive Department, State Planning Office Department of Economic and Community Development, Office of Community Development~~ shall together determine an amount to be transferred annually from the fund for training and certification under Title 30-A, section 4451, subsection 3-A to the Maine Code Enforcement Training and Certification Fund established in Title 30-A, section 4451, subsection 3-B. Any balance of the fund may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal year.

**Sec. FF-4. 25 MRSA §2450-A**, as enacted by PL 2007, c. 699, §13, is amended to read:

**§2450-A. Surcharge on plan review fee for Uniform Building Codes and Standards Fund**

In addition to the fees established in section 2450, a surcharge of 4¢ per square foot of occupied space must be levied on the existing fee schedule for new construction, reconstruction, repairs, renovations or new use for the sole purpose of funding the activities of the Technical Building Codes and Standards Board with respect to the Maine Uniform Building and Energy Code, established pursuant to the Title 10, chapter 1103, the activities of the Bureau of Building Codes and Standards under chapter 314 and the activities of the ~~Executive Department, State Planning Office Department of Economic and Community Development, Office of Community Development~~ under Title 30-A, section 4451, subsection 3-A, except that the fee for review of a plan for the renovation of a public school, including the fee established under section 2450, may not exceed \$450. Revenue collected from this surcharge must be deposited into the Uniform Building Codes and Standards Fund established by section 2374.

**Sec. FF-5. 30-A MRSA §4215, sub-§4**, as amended by PL 2009, c. 213, Pt. M, §4, is further amended to read:

**4. Fees.** The plumbing inspector shall issue any permit under this section upon receipt and approval of a completed application form as prescribed by the commissioner and payment by the applicant of the fee established by the municipality. The fee must be at least the minimum amount determined by rule of the department. One-quarter of the amount of the minimum fee must be paid through the department to the Treasurer of State to be maintained as a permanent fund and used by the department to implement its sub-surface wastewater disposal rules, to administer the receipt and collation of completed permits and to issue plumbing permit labels to the municipality and by the ~~State Planning Office Department of Economic and Community Development, Office of Community Development~~ for training and certification of local plumbing inspectors. The department and the ~~State Planning Office Department of Economic and Community Development, Office of Community Development~~ shall together determine an amount to be transferred annually by the Treasurer of State for training and certification of local plumbing inspectors to the Maine Code Enforcement Training and Certification Fund established in section 4451, subsection 3-B. The remainder of the fee must be paid to the treasurer of the municipality.

**Sec. FF-6. 30-A MRSA §4221, sub-§1**, as amended by PL 1997, c. 296, §3, is further amended to read:

**1. Appointment; compensation; removal.** In every municipality, the municipal officers shall appoint one or more inspectors of plumbing, who need not be residents of the municipality for which they are appointed. Plumbing inspectors are appointed for a term of one year or more and must be sworn and the appointment recorded as provided in section 2526, subsection 9. An individual properly appointed as plumbing inspector and satisfactorily performing the duties may continue in that capacity after the term has expired until replaced. The municipal officers shall notify the department and the ~~State Planning Office Department of Economic and Community Development, Office of Community Development~~ of the appointment of a plumbing inspector in writing within 30 days of the appointment.

Compensation of plumbing inspectors is determined by the municipal officers and paid by the respective municipalities.

The municipal officers may remove a plumbing inspector for cause, after notice and hearing.

**Sec. FF-7. 30-A MRSA §4221, sub-§2**, as amended by PL 1997, c. 683, Pt. B, §15 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

**2. Certification requirements.** A person may not hold the office of plumbing inspector unless cur-

rently certified as qualified by the ~~State Planning Office~~ pursuant to section 4451. Certification is effective for a period of 5 years unless sooner revoked or suspended by the District Court as provided for in section 4451.

**Sec. FF-8. 30-A MRSA §4451**, as amended by PL 2009, c. 213, Pt. M, §§5 to 9 and c. 261, Pt. A, §14, is further amended to read:

**§4451. Training and certification for code enforcement officers**

**1. Certification required; exceptions.** A municipality may not employ any individual to perform the duties of a code enforcement officer who is not certified by the ~~office former State Planning Office or the Department of Economic and Community Development, Office of Community Development~~, except that:

- A. An individual other than an individual appointed as a plumbing inspector has 12 months after beginning employment to be trained and certified as provided in this section;
- B. Whether or not any extension is available under paragraph A, the ~~office Department of Economic and Community Development, Office of Community Development~~ may waive this requirement for up to one year if the certification requirements cannot be met without imposing a hardship on the municipality employing the individual;
- C. An individual may be temporarily authorized in writing by the Department of Health and Human Services, Division of Health Engineering to be employed as a plumbing inspector for a period not to exceed 12 months; and
- D. An individual whose certification has expired or is about to expire may be temporarily authorized in writing by the ~~office Department of Economic and Community Development, Office of Community Development~~ to extend that individual's certification for a period not to exceed 12 months in cases where the necessary training or examination is suspended under subsection 3-B, paragraph E.

**2. Penalty.** Any municipality that violates this section commits a civil violation for which a forfeiture of not more than \$100 may be adjudged. Each day in violation constitutes a separate offense.

**2-A. Code enforcement officer; definition and duties.** As used in this subchapter, "code enforcement officer" means a person certified under this section and employed by a municipality to enforce all applicable laws and ordinances in the following areas:

- A. Shoreland zoning under Title 38, chapter 3, subchapter ~~1~~ 1, article 2-B;

- B. Comprehensive planning and land use under Part 2, Subpart ~~VI-A~~ 6-A;

- C. Internal plumbing under chapter 185, subchapter ~~3~~ 3;

- D. Subsurface wastewater disposal under chapter 185, subchapter ~~3~~ 3; and

- E. Building standards under chapter 141; chapter 185, subchapter 1; beginning June 1, 2010, Title 10, chapter 1103; and Title 25, chapters 313 and 331.

**3. Training and certification of code enforcement officers.** In cooperation with code enforcement officer professional associations, the Maine Community College System, the Department of Environmental Protection, the Department of Health and Human Services and the Department of Public Safety, except as otherwise provided in paragraph H, the ~~office Department of Economic and Community Development, Office of Community Development~~ shall establish a continuing education program for individuals engaged in code enforcement. This program must provide basic training in the technical and legal aspects of code enforcement necessary for certification. The basic training program must include training to provide familiarity with the laws and ordinances related to the structure and practice of the municipal code enforcement office, municipal planning board and appeals board procedures, application review and permitting procedures, inspection procedures and enforcement techniques.

- H. If funding is not available to support the training and certification program authorized under this subsection, the ~~office Department of Economic and Community Development, Office of Community Development~~ shall discontinue training and certification activities related to laws and ordinances referenced in subsection 2-A, paragraphs A and B and shall adopt by routine technical rules under Title 5, chapter 375, subchapter 2-A a program to register code enforcement officers that meet training and education qualifications. The ~~office Department of Economic and Community Development, Office of Community Development~~ shall publish the list of persons registered for code enforcement who have submitted evidence of required qualifications. Persons registered under this paragraph must meet the requirements for training and certification under this subchapter. The ~~office Department of Economic and Community Development, Office of Community Development~~ shall consult with the Department of Health and Human Services for the purposes of carrying out training and certification activities related to laws and ordinances referenced in subsection 2-A, paragraphs C and D. Within one month of discontinuation of training and certification under this paragraph, the ~~office Department of Economic and Community Development, Office of Community Development~~

ment of Economic and Community Development, Office of Community Development shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over state and local government matters a recommendation for funding the training and certification program or for further changes in program requirements.

**3-A. Training and certification of inspectors in the Maine Uniform Building and Energy Code.** In accordance with the training and certification requirements developed pursuant to Title 10, section 9723, the office Department of Economic and Community Development, Office of Community Development shall provide the training necessary to certify municipal building officials, local code enforcement officers and 3rd-party inspectors.

**3-B. Maine Code Enforcement Training and Certification Fund.** The Maine Code Enforcement Training and Certification Fund, referred to in this section as "the fund," is established as a nonlapsing fund to support training and certification programs administered by the office Department of Economic and Community Development, Office of Community Development for code enforcement officers, local plumbing inspectors, municipal building officials and 3rd-party inspectors in accordance with this subchapter.

A. Beginning July 1, 2009, and each year thereafter on July 1st, the funds identified in section 4215, subsection 4 for training and certifying local plumbing inspectors must be transferred to the fund.

B. Beginning July 1, 2009, and each year thereafter on July 1st, the funds identified in Title 25, section 2374 for training and certifying municipal building officials, local code enforcement officers and 3rd-party inspectors must be transferred to the fund.

C. The office Department of Economic and Community Development, Office of Community Development shall place in the fund any money it receives from grants to support the requirements of this subchapter.

D. Funds related to code enforcement training and certification may be expended only in accordance with allocations approved by the Legislature and solely for the administration of this subchapter. Any balance remaining in the fund at the end of any fiscal year may not lapse but must be carried forward to the next fiscal year.

E. If the fund does not contain sufficient money to support the costs of the training and certification provided for in this subchapter, the office Department of Economic and Community Development,

Office of Community Development may suspend all or reduce the level of training and certification activities.

**4. Examination.** The office Department of Economic and Community Development, Office of Community Development shall conduct at least one examination each year to examine candidates for certification at a time and place designated by it. The office Department of Economic and Community Development, Office of Community Development may conduct additional examinations to carry out the purposes of this subchapter.

**5. Certification standards.** The office Department of Economic and Community Development, Office of Community Development shall adopt routine technical rules under Title 5, chapter 375, subchapter 2-A to establish the qualifications, conditions and licensing standards and procedures for the certification and recertification of individuals as code enforcement officers. A code enforcement officer need only be certified in the areas of actual job responsibilities. The rules established under this subsection must identify standards for each of the areas of training under subsection 2-A, in addition to general standards that apply to all code enforcement officers.

**6. Certification; terms; revocation.** The office Department of Economic and Community Development, Office of Community Development shall certify individuals as to their competency to successfully enforce ordinances and other land use regulations and permits granted under those ordinances and regulations and shall issue certificates attesting to the competency of those individuals to act as code enforcement officers. Certificates issued by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development are valid for 6 years unless revoked by the District Court. An examination is not required for recertification of code enforcement officers. The office Department of Economic and Community Development, Office of Community Development shall recertify a code enforcement officer if the code enforcement officer successfully completes at least 12 hours of approved training in each area of job responsibility during the 6-year certification period.

A. The District Court may revoke the certificate of a code enforcement officer, in accordance with Title 4, chapter 5, when it finds that:

- (1) The code enforcement officer has practiced fraud or deception;
- (2) Reasonable care, judgment or the application of a duly trained and knowledgeable code enforcement officer's ability was not used in the performance of the duties of the office; or

(3) The code enforcement officer is incompetent or unable to perform properly the duties of the office.

B. Code enforcement officers whose certificates are invalidated under this subsection may be issued new certificates provided that they are newly certified as provided in this section.

**7. Other professions unaffected.** This subchapter may not be construed to affect or prevent the practice of any other profession.

**Sec. FF-9. 30-A MRSA §4452, sub-§7,** as amended by PL 2007, c. 569, §1, is further amended to read:

**7. Natural resources protection laws.** A code enforcement officer, authorized by a municipality to represent that municipality in District Court and certified by the ~~former State Planning Office or the Department of Economic and Community Development, Office of Community Development~~ under section 4453 as familiar with court procedures, may enforce the provisions of Title 38, section 420-C, Title 38, chapter 3, subchapter 1, article 5-A and Title 38, chapter 13-D by instituting injunctive proceedings or by seeking civil penalties in accordance with Title 38, section 349, subsection 2.

**Sec. FF-10. 30-A MRSA §4453,** as amended by PL 2009, c. 213, Pt. M, §§10 to 12, is further amended to read:

**§4453. Certification for representation in court**

The ~~office~~ Department of Economic and Community Development, Office of Community Development shall establish certification standards and a program to certify familiarity with court procedures for the following individuals:

**1. Code enforcement officers.** Code enforcement officers as set forth in sections 4451 and 4452 and Title 38, section 441;

**2. Plumbing inspectors.** Plumbing inspectors as set forth in sections 4221 and 4451;

**3. Department of Environmental Protection.** Department of Environmental Protection employees as set forth in Title 38, section 342, subsection 7; and

**4. Maine Land Use Regulation Commission.** Maine Land Use Regulation Commission employees as set forth in Title 12, section 685-C, subsection 9.

**Sec. FF-11. 38 MRSA §480-F, sub-§1, ¶B,** as repealed and replaced by PL 1997, c. 364, §19, is amended to read:

B. Adopted a comprehensive plan and related land use ordinances determined by the ~~former State Planning Office or the Department of Conservation~~ to be consistent with the criteria set forth in Title 30-A, chapter 187, subchapter ~~H~~ 2

and determined by the commissioner to be at least as stringent as criteria set forth in section 480-D;

**Sec. FF-12. 38 MRSA §480-F, sub-§1, ¶F,** as amended by PL 2003, c. 688, Pt. A, §43, is further amended to read:

F. Appointed a code enforcement officer, certified by the ~~Executive Department, State Planning Office~~ pursuant to Title 30-A, section 4451.

**Sec. FF-13. 38 MRSA §488, sub-§19,** as amended by PL 2001, c. 626, §11, is further amended to read:

**19. Municipal capacity.** A structure, as defined in section 482, subsection 6, that is from 3 acres up to and including 7 acres or a subdivision, as defined in section 482, subsection 5, that is made up of 15 or more lots for single-family, detached, residential housing, common areas or open space with an aggregate area of from 30 acres up to and including 100 acres is exempt from review under this article if it is located wholly within a municipality or municipalities meeting the criteria in paragraphs A to D as determined by the department and it is located wholly within a designated growth area as identified in a comprehensive plan adopted pursuant to Title 30-A, chapter 187, subchapter ~~H~~ 2. The planning board of the municipality in which the development is located or an adjacent municipality may petition the commissioner to review such a structure or subdivision if it has regional environmental impacts. This petition must be filed within 20 days of the receipt of the application by the municipality. State jurisdiction must be exerted, if at all, within 30 days of receipt of the completed project application by the commissioner from the municipality or within 30 days of receipt of any modification to that application from the municipality. Review by the department is limited to the identified regional environmental impacts. The criteria are as follows:

A. A municipal planning board or reviewing authority is established and the municipality has adequate resources to administer and enforce the provisions of its ordinances. In determining whether this criterion is met, the commissioner may consider any specific and adequate technical assistance that is provided by a regional council;

B. The municipality has adopted a site plan review ordinance. In determining the adequacy of the ordinance, the commissioner may consider model site plan review ordinances commonly used by municipalities in this State that address the issues reviewed under applicable provisions of this article prior to July 1, 1997;

C. The municipality has adopted subdivision regulations. In determining the adequacy of these regulations, the commissioner may consider model subdivision regulations commonly used by municipalities in this State; and

D. The former State Planning Office or the Department of Conservation has determined that the municipality has a comprehensive land use plan and land use ordinances or zoning ordinances that are consistent with Title 30-A, chapter 187 in providing for the protection of wildlife habitat, fisheries, unusual natural areas and archaeological and historic sites.

The department, in consultation with the ~~State Planning Office~~ Department of Conservation, shall publish a list of those municipalities determined to have capacity pursuant to this subsection. This list need not be established by rule and must be published by January 1st of each year. The list must specify whether a municipality has capacity to review structures or subdivisions of lots for single-family, detached, residential housing, common areas or open space or both types of development. The department may recognize joint arrangements among municipalities and regional organizations in determining whether the requirements of this subsection are met. The department may review municipalities that are determined to have capacity pursuant to this subsection for compliance with the criteria in paragraphs A to D, and if the department determines that a municipality does not meet the criteria, the department may modify or remove the determination of capacity.

A modification to a development that was reviewed by a municipality and exempted pursuant to this subsection is exempt as long as the modification will not cause the total area of the development to exceed the maximum acreage specified in this subsection for that type of development or, based upon information submitted by the municipality concerning the development and modification, the department determines that the modification may be adequately reviewed by the municipality.

**Sec. FF-14. Transition provisions; code enforcement training and certification-related matters.** The following provisions apply to the reassignment of duties, responsibilities and activities of the Executive Department, State Planning Office regarding code enforcement training and certification to the Department of Economic and Community Development, Office of Community Development.

1. One authorized position and incumbent personnel as of April 1, 2012 in the State Planning Office that is assigned to that office's code enforcement training and certification program is transferred to the Department of Economic and Community Development, Office of Community Development. This employee retains accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

2. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, the State Controller, upon request of the State Budget Officer and with the ap-

proval of the Governor, shall transfer to the proper account in the Department of Economic and Community Development, Office of Community Development all accrued expenditures, assets and liabilities, including but not limited to any contractual obligations, balances, appropriations, allocations, transfers, revenues and other available funds, in any account or subdivision of an account of the State Planning Office established for funds provided to the office under Title 25, section 2374 and Title 30-A, section 4215, subsection 4. Nothing in this section changes or is intended to change or otherwise affect the purposes or uses for which any funds transferred pursuant to this section may be expended.

**Sec. FF-15. Report on implementation.** The Commissioner of Economic and Community Development and the Commissioner of Conservation shall report to the Joint Standing Committee on Appropriations and Financial Affairs no later than November 15, 2012 on the status of the integration of the training and certification of code enforcement officers into the Department of Economic and Community Development. The report must include any recommended changes to the original implementation plans and any necessary implementing legislation.

**Sec. FF-16. Effective date.** This Part takes effect July 1, 2012.

## PART GG

**Sec. GG-1. 5 MRSA §1742, sub-§28** is enacted to read:

**28. State landfills.** To own, design, develop or operate, or contract with private parties to operate, solid waste disposal facilities, as provided in Title 38, chapter 24, subchapter 4.

**Sec. GG-2. 5 MRSA §12004-D, sub-§4**, as enacted by PL 1989, c. 585, Pt. A, §5, is repealed.

**Sec. GG-3. 5 MRSA §12006, sub-§3, ¶B**, as enacted by PL 2003, c. 643, §6, is repealed.

**Sec. GG-4. 10 MRSA §1023-G, sub-§3, ¶D**, as amended by PL 1995, c. 656, Pt. A, §2, is further amended to read:

D. The project will contribute to achieving the goals identified in the state waste management and recycling plan adopted under Title 38, chapter 24 and is determined by the ~~State Planning Office~~ Department of Environmental Protection to be consistent with that plan. Prior to adopting the state waste management and recycling plan, the fund may be used for projects that help achieve the goals identified in the state recycling plan approved under former Title 38, section 1310-M.

**Sec. GG-5. 10 MRSA §1041, sub-§18**, as amended by PL 1995, c. 656, Pt. A, §3, is further amended to read:

**18. Recycling and waste reduction.** Provide financial assistance to businesses for recycling and waste reduction projects that are consistent with the management goals and objectives outlined in the state waste management and recycling plan under Title 38, chapter 24. ~~The State Planning Office~~ Department of Environmental Protection shall provide assistance to the authority in determining consistency, technical eligibility and merit of application for recycling loans.

**Sec. GG-6. 10 MRSA §1063, sub-§2, ¶I-1,** as amended by PL 1995, c. 656, Pt. A, §4, is further amended to read:

I-1. In the case of recycling and waste reduction projects, the proposed facility is consistent with and will contribute to the management goals and objectives outlined in the state waste management and recycling plan under Title 38, chapter 24 and will reduce the amount of solid or hazardous waste requiring disposal. ~~The State Planning Office~~ Department of Environmental Protection shall provide assistance to the authority in determining consistency, technical eligibility and merit of applications for assistance under this subchapter.

**Sec. GG-7. 38 MRSA §1303-C, sub-§6, ¶D,** as amended by PL 2005, c. 612, §2, is further amended to read:

D. Beginning January 1, 2007, a solid waste facility owned and controlled by the ~~office~~ Department of Administrative and Financial Services, Bureau of General Services under chapter 24;

**Sec. GG-8. 38 MRSA §1303-C, sub-§19-C,** as enacted by PL 1995, c. 656, Pt. A, §21, is repealed.

**Sec. GG-9. 38 MRSA §1303-C, sub-§35,** as amended by PL 1997, c. 393, Pt. B, §9, is further amended to read:

**35. State waste management and recycling plan.** "State waste management and recycling plan" means the plan adopted by the former Maine Waste Management Agency pursuant to chapter 24, subchapter ~~H and 2~~, subsequent plans developed by the ~~former~~ State Planning Office pursuant to Title 5, ~~former~~ section 3305, subsection 1, paragraph N and the department pursuant to section 2122 and may also be referred to as "state plan."

**Sec. GG-10. 38 MRSA §1304, sub-§4,** as amended by PL 1995, c. 656, Pt. A, §22, is further amended to read:

**4. Technical assistance.** The commissioner is authorized to establish guidelines for effective waste management, to provide technical assistance to persons planning, constructing or operating waste facilities, and to conduct applied research activities in the field of waste management, disposal technology and environmental effects, including methods of recycling hazardous or solid waste, sludge or septage. ~~The~~

~~commissioner shall cooperate with the office in the design and delivery of this assistance.~~

**Sec. GG-11. 38 MRSA §1304, sub-§13,** as amended by PL 1995, c. 656, Pt. A, §23, is further amended to read:

**13. Innovative disposal and utilization.** Recognizing that environmentally suitable sites for waste disposal are in limited supply and represent a critical natural resource, the commissioner may investigate and implement with the approval of the board innovative programs for managing, utilizing and disposing of solid waste. Innovative programs may include agricultural and forest land spreading of wood-derived ash, utilization of ash resulting from combustion of municipal solid waste, paper mill sludges, municipal waste water treatment plant sludges and the composting of yard wastes. ~~The office~~ commissioner shall first determine that the proposed innovative disposal and waste management programs are consistent with the state plan. The commissioner shall review proposed innovative programs for each waste category and shall apply all controls necessary to ensure the protection of the environment and public health consistent with this chapter. The board may adopt application review procedures designed to review individual applications and their individual waste sources with prior approval of classes of disposal or utilization sites. The board shall adopt provisions for municipal notification prior to use of individual utilization sites.

**Sec. GG-12. 38 MRSA §1304-B, sub-§4-A, ¶D,** as amended by PL 1995, c. 656, Pt. A, §24, is further amended to read:

D. A municipality that anticipates that it will be unable to meet its contract obligation to supply a minimum BTU content level or minimum tonnage due to waste reduction or recycling programs and is unable to reach an agreement with the incinerator for the anticipated reduction may request the ~~office~~ department to intercede. ~~The office~~ department shall assist the incinerator in soliciting solid waste to mitigate any anticipated shortfall in minimum BTU content level or minimum tonnage. If no agreement on mitigation of an anticipated shortfall is reached, the terms of the original contract prevail, except as otherwise provided in this chapter.

**Sec. GG-13. 38 MRSA §1309,** as amended by PL 2001, c. 22, §1, is further amended to read:

**§1309. Interstate cooperation**

The Legislature encourages cooperative activities by the department ~~and the office~~ with other states for the improved management of hazardous and solid waste; for improved, and as far as is practicable, uniform state laws relating to the management of hazardous and solid waste; and compacts between this and

other states for the improved management of hazardous and solid waste.

**Sec. GG-14. 38 MRSA §1310-S, sub-§1**, as amended by PL 1995, c. 656, Pt. A, §25, is further amended to read:

**1. Notification.** A person applying for a license under this article or giving notice to the commissioner pursuant to section 485-A shall give, at the same time, written notice ~~to the office and~~ to the municipal officers of the municipality in which the proposed facility may be located and shall publish notice of the application in a newspaper of general circulation in the area.

**Sec. GG-15. 38 MRSA §1310-U, first ¶**, as amended by PL 1995, c. 656, Pt. A, §26, is further amended to read:

Municipalities are prohibited from enacting stricter standards than those contained in this chapter and in the solid waste management rules adopted pursuant to this chapter governing the hydrogeological criteria for siting or designing solid waste disposal facilities or governing the engineering criteria related to waste handling and disposal areas of a solid waste disposal facility. Except as provided in section 2173, municipalities are further prohibited from enacting or applying ordinances that regulate solid waste disposal facilities owned by the ~~office~~ State or a state agency or a regional association.

**Sec. GG-16. 38 MRSA §1316-G, first ¶**, as enacted by PL 1995, c. 578, §1, is amended to read:

The State shall undertake a program to eliminate tire stockpiles. The program is under the direction of the department with assistance from other agencies including ~~the State Planning Office~~, the Department of the Attorney General, the Maine State Police, the Maine National Guard and the Department of Corrections.

**Sec. GG-17. 38 MRSA §1316-G, sub-§§2 and 3**, as enacted by PL 1995, c. 578, §1, are amended to read:

**2. Market development.** ~~The State Planning Office~~ department shall, as available resources allow, assist ~~the department generally in implementation of subsection 1. The assistance may include, but is not limited to, encouraging with market development to encourage~~ the beneficial reuse of whole tires and processed tires inside or outside the State. ~~The office~~ department may also make recommendations to the Legislature regarding legislation that would enhance the beneficial reuse of waste tires or processed tires.

**3. Business retention and new technology.** The Department of Economic and Community Development, as available resources allow, shall lead a cooperative effort involving the department, ~~the State Planning Office~~ and the Finance Authority of Maine to identify measures the State can take to provide a fa-

vorable environment for the retention of businesses assisting in the processing of waste tires. This cooperative effort must also provide for the introduction of viable new technologies to cost-effectively convert waste tires to commodities that can be utilized for beneficial reuse and for energy production.

**Sec. GG-18. 38 MRSA §1652, sub-§2**, as amended by PL 1997, c. 195, §1, is further amended to read:

**2. Schools.** A school or school administrative district shall comply with the provisions of this section except that a food service providing such services to satellite facilities at the school or school administrative district serviced by central kitchen facilities not at the same location is exempt. A school or school administrative district may submit a request to the ~~Executive Department, State Planning Office~~ department for a 3-year waiver from the provisions of this section. ~~The State Planning Office~~ department may grant the requested waiver as long as:

A. The request includes an explanation of the district's financial hardship and a waste reduction plan. The plan must be designed to achieve the goal of using durable containers in place of disposable containers, unless it is shown that the use of durable containers is not feasible and alternative goals are proposed. The plan must include a proposed capital plan for the acquisition of necessary equipment; and

B. The school or school administrative district has held a public hearing on the proposal to use polystyrene containers and the waste reduction plan.

The ~~State Planning Office~~ department may renew the waiver for 2-year periods if it finds that the school or school administrative district has made reasonable progress toward implementing the waste reduction plan. ~~The State Planning Office~~ department, within available resources, may provide technical and financial assistance to schools and school administrative districts to assist them with meeting the goal of using durable containers.

**Sec. GG-19. 38 MRSA §1668**, as enacted by PL 1999, c. 779, §2, is amended to read:

**§1668. Education program**

The department ~~and the Executive Department, State Planning Office~~ shall implement an education program relating to mercury-added products no later than January 1, 2001. The program must provide information to the public about labeled mercury-added products, the requirements of the law regarding the source separation of waste mercury-added products and collection programs that are available to the public.

**Sec. GG-20. 38 MRSA §1669**, as enacted by PL 1999, c. 779, §2, is amended to read:

**§1669. Technical assistance to municipalities**

The department shall ~~coordinate with the Executive Department, State Planning Office~~ to assist interested municipalities and regional associations in developing collection programs for mercury-added products.

**Sec. GG-21. 38 MRSA §1705, sub-§9-B**, as enacted by PL 1995, c. 656, Pt. A, §28, is repealed.

**Sec. GG-22. 38 MRSA §1721**, as amended by PL 1995, c. 656, Pt. A, §29, is further amended to read:

**§1721. Formation**

The formation of a disposal district is accomplished as follows.

**1. Application by municipal officers.** The municipal officers of the municipality or municipalities that desire to form a disposal district shall file an application with the ~~office department~~, after notice and hearing in each municipality, on a form or forms prepared by the ~~office department~~, setting forth the name or names of the municipality or municipalities and furnishing such other data as the ~~office department~~ determines necessary and proper. The application must contain, but is not limited to, a description of the territory of the proposed district, the name proposed for the district that includes the words "disposal district," a statement showing the existence in that territory of the conditions requisite for the creation of a disposal district as prescribed in section 1702; and other documents and materials required by the ~~office department~~. The ~~office department~~ may adopt rules under this chapter.

**2. Public hearing.** Upon receipt of the application, the ~~office department~~ shall hold a public hearing on the application within 60 days of the date of receipt of the application, at some convenient place within the boundaries of the proposed district. At least 14 days prior to the date of the hearing, the ~~office department~~ shall publish notice of the hearing at least once in a newspaper of general circulation in the area encompassed by the proposed district.

**3. Approval of application.** After the public hearing, on consideration of the evidence received, the ~~office department~~ shall, in accordance with section 1702 and rules adopted by the ~~office department~~, make findings of fact and a determination of record whether or not the conditions requisite for the creation of a disposal district exist in the territory described in the application. If the ~~office department~~ finds that the conditions do exist, it shall issue an order approving the proposed district as conforming to the requirements of this chapter and designating the name of the proposed district. The ~~office department~~ shall give

notice to the municipal officers within the municipality or municipalities involved of a date, time and place of a meeting of the representative of the municipality or municipalities involved. The municipal officers shall elect a representative to attend the meeting who may represent the municipality in all matters relating to the formation of the district. A return receipt properly endorsed is evidence of the receipt of notice. The notice must be mailed at least 10 days prior to the date set for the meeting.

**4. Denial of application.** If the ~~office department~~ determines that the creation of a disposal district in the territory described in the application is not warranted for any reason, it shall make findings of fact and enter an order denying its approval. The ~~office department~~ shall give notice of the denial by mailing certified copies of the decision and order to the municipal officers of the municipality or municipalities involved. An application for the creation of a disposal district, consisting of exactly the same territory, may not be entertained within one year after the date of the issuance of an order denying approval of the formation of that disposal district, but this provision does not preclude action on an application for the creation of a disposal district embracing all or part of the territory described in the original application, ~~provided that as long as~~ another municipality or fewer municipalities are involved.

**5. Joint meeting.** The persons selected by the municipal officers, to whom the notice described in subsection 3 is directed, shall meet at the time and place appointed. When more than one municipality is involved, they shall organize by electing a chair and a secretary. An action may not be taken at any such meeting unless, at the time of convening, there are present at least a majority of the total number of municipal representatives eligible to attend and participate at the meeting, other than to report to the ~~office department~~ that a quorum was not present and to request the ~~office department~~ to issue a new notice for another meeting. A quorum is a simple majority of representatives eligible to attend the meeting. The purpose of the meeting is to determine the number of directors, subject to section 1724, to be appointed by and to represent each participating municipality and to determine the duration of terms to be served by the initial directors so that, in ensuing years, 1/3 of the directors and their alternates are appointed or reappointed each year, to serve until their respective successors are duly appointed and qualified. Subject to section 1724, the number of directors to represent each municipality is subject for negotiation among the municipal representatives. When a decision has been reached on the number of directors and the number to represent each municipality and the initial terms of the directors, subject to the limitations provided, this decision must be reduced to writing by the secretary and must be approved by a 2/3 vote of those present. The

vote so reduced to writing and the record of the meeting must be signed by the chair, attested by the secretary and filed with the office department. Any agreements among the municipal representatives that are considered essential prerequisites to the formation of the district, whether concerning payments in lieu of taxes to a municipality in which a waste facility is to be located, or any other matter, must be in writing and included in the record filed with the office department. Subsequent to district formation, the board of directors of the district shall execute all documents necessary to give full effect to the agreements reached by the municipal representatives and filed with the office department. When a single municipality is involved, a copy of the vote of the municipal officers, duly attested by the clerk of the municipality, must be filed with the office department.

**6. Submission.** When the record of the municipality, or the record of the joint meeting, when municipalities are involved, is received by the office department and found to be in order, the office department shall order the question of the formation of the proposed disposal district and other questions relating to the formation to be submitted to the legal voters residing within the municipalities, except as provided in subsection 7, in which case the municipal officers may determine the questions. The order must be directed to the municipal officers of the municipality or municipalities that propose to form the disposal district, directing them to call, within 60 days of the date of the order, town meetings or city elections for the purpose of voting in favor of or in opposition to each of the following articles or questions, as applicable, in substantially the following form:

- A. Whether the town (or city) of (name of town or city) will vote to incorporate as a disposal district to be called (name) Disposal District;
- B. Whether the residents of (name of town or city) will vote to join with the residents of the (name of town or city) to incorporate as a disposal district to be called (name) Disposal District: (legal description of the bounds of the proposed disposal district). At a minimum, the district must consist of (names of essential municipalities); and
- C. Whether the residents of (name of town or city) will vote to approve the total number of directors and the allocation of representation among the municipalities on the board of directors, as determined by the municipal officers and listed as follows: Total number of directors is (number of directors) and the residents of (town or city) are entitled to ( ) directors. (The number of directors to which each municipality is entitled must be listed.)

Directors must be chosen to represent municipalities in the manner provided in section 1725.

**7. Determination by municipal officers.** In the event that the charters of the respective municipalities, or any one of them, consistent with such state laws as may otherwise be applicable, permit the municipal officers of the municipality or municipalities that propose to form the disposal district to vote to join such a district, the municipal officers may determine the question of the formation of the proposed disposal district and other questions relating to the formation without submission to the legal voters residing within the municipality.

**Sec. GG-23. 38 MRSA §1722**, as amended by PL 1995, c. 656, Pt. A, §30, is further amended to read:

**§1722. Approval and organization**

When the residents of the municipality, or each municipality when more than one is involved, or the municipal officers, as the case may be, have voted upon the formation of a proposed disposal district and all of the other questions submitted, the clerk of each of the municipalities shall make a return to the office department in such form as the office department may determine. If the office department finds from the returns that each of the municipalities involved, voting on each of the articles and questions submitted to them, has voted in the affirmative, and that the municipalities have appointed the necessary directors and listed the names of the directors to represent each municipality, and that all other steps in the formation of the proposed disposal district are in order and in conformity with law, the office department shall make a finding to that effect and record the finding upon its records. When 3 or more municipalities are concerned in the voting, and at least 2 have voted to approve each of the articles and questions submitted, appointed the necessary directors and listed the names of the directors to represent each municipality, rejection of the proposed disposal district by one or more does not defeat the creation of a district composed of the municipalities voting affirmatively on the question, if the office department determines and issues an order stating that it is feasible or practical to constitute the district as a geographic unit composed of the municipalities voting affirmatively, unless the vote submitted to the municipalities provided that specific participants or a minimum number of participants must approve the formation of the district.

The office department, immediately after making its findings, shall issue a certificate of organization in the name of the disposal district in such form as the office department determines. The original certificate must be delivered to the directors on the day that they are directed to organize and a copy of the certificate duly attested by the ~~executive director of the office commissioner~~ must be filed and recorded in the office of the Secretary of State. The issuance of the certificate by the office department is conclusive evidence of

the lawful organization of the disposal district. The disposal district is not operative until the date set by the directors under section 1726.

**Sec. GG-24. 38 MRSA §1725, first ¶**, as amended by PL 1995, c. 656, Pt. A, §31, is further amended to read:

Directors are appointed by the municipal officers of the municipality they represent. Alternate directors may be appointed by the municipal officers to act in the absence of a director. To the extent possible, the board of directors must include a mix of individuals with sufficient managerial, technical, financial or business experience to execute their duties efficiently and effectively. Appointments must be by vote of the municipal officers, attested to by the municipal clerk and presented to the clerk of the district. The municipal officers, by majority vote, may remove their appointed representatives during their term for stated reasons, but directors may not be removed except for neglect of duty, misconduct or other acts that indicate an unfitness to serve. Upon receipt of the names of all the directors, the ~~office department~~ shall set a time, place and date for the first meeting of the directors, notice of the meeting to be given to the directors by certified or registered mail, return receipt requested and mailed at least 10 days prior to the date set for the meeting.

**Sec. GG-25. 38 MRSA §1726-A, sub-§4, ¶A**, as amended by PL 1995, c. 656, Pt. A, §32, is further amended to read:

A. When the question is submitted prior to the issuance of any indebtedness by the district, the directors may decide that approval of such an assessment article by the voters of a municipality is a condition of each municipality's continuance as a member of the district, in which case the ballots must include a statement that municipalities that fail to vote in favor of the proposed assessment article are no longer members of the district if the board determines that it is feasible or practical to constitute a district as a geographic unit made up of the municipalities voting in favor of the proposed assessment article. The ballots must also state the method to be used to allocate assessments among the member municipalities if the article is approved. The ballot may not contain a specific fractional share of the assessment to be borne by each member municipality. The votes must be counted in each municipality and the affirmative vote of a simple majority of votes cast in each municipality is required to grant the district assessment powers over all of the municipalities in the district. When 3 or more municipalities are involved in the voting and at least 2 have voted to approve the assessment article submitted to them, rejection of the proposed assessment article by one or more municipalities does not defeat the as-

essment power with respect to the municipalities voting in favor of it if the board determines that it is feasible or practical to constitute a district made up of the municipalities voting in favor of the article as a geographic unit. In that event, the board, immediately after making its findings, shall issue an amended certificate of organization in the name of the district for a district composed only of the municipalities voting in favor of the assessment article. Upon the issuance of a certificate the municipalities not approving the assessment article are no longer members of the district. The original of the amended certificate must be delivered to the directors of the district and a copy of the certificate attested by the ~~Director of the State Planning Office~~ commissioner must be filed and recorded in the office of the Secretary of State. The issuance of the certificate by the board is conclusive evidence of the lawful reorganization of the district. If the board determines that it is not feasible or practical to constitute the district as a geographic unit composed of the municipalities voting affirmatively on the article, the district continues to exist with no assessment power and the municipalities that did not approve the assessment article remain members of the district.

**Sec. GG-26. 38 MRSA §1727**, as amended by PL 1995, c. 656, Pt. A, §33, is further amended to read:

**§1727. Admission of new member municipalities**

The board of directors may authorize the inclusion of additional member municipalities in the district upon the terms and conditions as the board, in its sole discretion, determines to be fair, reasonable and in the best interest of the district, except that on proper application any municipality that is host to a waste facility of the district must be admitted on equal terms with existing members, ~~provided that~~ if the new member municipality assumes or becomes responsible for a proportionate share of liabilities of the district in a manner similar to that of existing municipalities. The legislative body of any nonmember municipality that desires to be admitted to the district shall make application for admission to the board of directors of the district. The directors shall determine the effects and impacts that are likely to occur if the municipality is admitted and shall either grant or deny authority for admission of the petitioning municipality. If the directors grant the authority, they shall also specify any terms and conditions, including, but not limited to, financial obligations upon which the admission is predicated. The petitioning municipality shall comply with the voting procedures specified in section 1721. The vote, if in the affirmative, must be certified by the clerk of that municipality to the board of directors and to the ~~office department~~. Upon satisfactory performance of the terms and conditions of admission, the municipality by resolution of the board of directors

becomes and thereafter is a member municipality of the district. The clerk of the district shall promptly certify to the agency and the Secretary of State that the municipality has become a member of the district. The certification is conclusive evidence that the municipality is a lawful member of the district. Upon admission of a municipality to a district, the provisions of section 1724 determine the number of votes to be cast by the director or directors representing that municipality.

**Sec. GG-27. 38 MRSA §2101-A, sub-§2**, as enacted by PL 1995, c. 465, Pt. A, §28 and affected by Pt. C, §2, is repealed.

**Sec. GG-28. 38 MRSA §2101-A, sub-§3** is enacted to read:

**3. Bureau.** "Bureau" means the Bureau of General Services within the Department of Administrative and Financial Services as authorized pursuant to Title 5, section 1742.

**Sec. GG-29. 38 MRSA §2122**, as repealed and replaced by PL 1995, c. 465, Pt. A, §34 and affected by Pt. C, §2 and amended by c. 588, §2, is further amended to read:

**§2122. State waste management and recycling plan**

The office department shall prepare an analysis of, and a plan for, the management, reduction and recycling of solid waste for the State. The plan must be based on the priorities and recycling goals established in sections 2101 and 2132. The plan must provide guidance and direction to municipalities in planning and implementing waste management and recycling programs at the state, regional and local levels.

**1. Consultation.** In developing the state plan, ~~the office shall consult with the department. The office~~ the department shall solicit public input and may hold hearings in different regions of the State.

**2. Revisions.** The office department shall revise the analysis by January 1, ~~1998~~ 2014 and every 5 years after that time to incorporate changes in waste generation trends, changes in waste recycling and disposal technologies, development of new waste generating activities and other factors affecting solid waste management as the office department finds appropriate.

**Sec. GG-30. 38 MRSA §2124**, as amended by PL 1995, c. 465, Pt. A, §37 and affected by Pt. C, §2, is further amended to read:

**§2124. Reports**

The office department shall submit the plan and subsequent revisions to the Governor, ~~the department~~ and the joint standing committee of the Legislature having jurisdiction over natural resource matters.

**Sec. GG-31. 38 MRSA §2124-A**, as amended by PL 2007, c. 583, §8, is further amended to read:

**§2124-A. Solid waste generation and disposal capacity report**

By January 1, ~~2008~~ 2013 and annually thereafter, the office department shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters, and the Governor ~~and the department~~ setting forth information on statewide generation of solid waste, statewide recycling rates and available disposal capacity for solid waste.

The report submitted under this section must include an analysis of how changes in available disposal capacity have affected or are likely to affect disposal prices. When the office department determines that a decline in available landfill capacity has generated or has the potential to generate supracompetitive prices, the office department shall include this finding in its report and shall include recommendations for legislative or regulatory changes as necessary.

Beginning on January 1, ~~2009~~ 2013 and every odd-numbered year thereafter, the report submitted under this section must include an analysis of how the rate of fill at each solid waste landfill has affected the expected lifespan of that solid waste landfill. ~~The January 2009 report must also include an analysis of the solid waste disposal needs of the State as of January 1, 2009 for the next 3, 5 and 10 years.~~

Beginning on January 1, ~~2010~~ 2014 and every even-numbered year thereafter, the report submitted under this section must include an analysis of consolidation of ownership in the disposal, collection, recycling and hauling of solid waste.

The joint standing committee of the Legislature having jurisdiction over solid waste matters may report out legislation related to the report submitted pursuant to this section.

**Sec. GG-32. 38 MRSA §2132**, as amended by PL 2005, c. 220, §§2 to 4, is further amended to read:

**§2132. State goals**

**1. State recycling goal.** It is the goal of the State to recycle or compost, by January 1, ~~2009~~ 2014, 50% of the municipal solid waste tonnage generated each year within the State.

**1-A. State waste reduction goal.** It is the goal of the State to reduce the biennial generation of municipal solid waste tonnage by 5% by beginning on January 1, 2009 and by an additional 5% every subsequent 2 years. This reduction in solid waste tonnage, after January 1, 2009, is a biennial goal. The baseline for calculating this reduction is the 2003 solid waste generation data gathered by the ~~office~~ former State Planning Office.

**2. Goal revision.** The office department shall recommend revisions, if appropriate, to the state recycling goal and waste reduction goal established in this section. The office department shall submit its recommendations and any implementing legislation to the joint standing committee of the Legislature having jurisdiction over natural resource matters.

**3. Beneficial use of waste.** The use of waste paper, waste plastics, waste wood, including wood from demolition debris, used motor vehicle tires or corrugated cardboard as a fuel in industrial boilers or waste-to-energy facilities for the generation of heat, steam or electricity constitutes recycling only for the purposes of determining whether the goals in subsection 1 are met and for determining municipal progress as provided in section 2133. In order for the use of waste under this subsection to constitute recycling, the office department must determine that there is no reasonably available market in the State for recycling that waste and the wastes must be incinerated as a substitute for, or supplement to, fossil or biomass fuels incinerated in the industrial boiler or waste-to-energy facility.

**4. Reduction in dioxin.** It is the policy of the State to reduce the total release of dioxin and mercury to the environment with the goal of its continued minimization and, where feasible, ultimate elimination.

**Sec. GG-33. 38 MRSA §2133**, as amended by PL 2003, c. 567, §§1 and 2, is further amended to read:

**§2133. Municipal recycling**

**1-A. Recycling progress.** Municipalities are not required to meet the state recycling goal in section 2132, but they must demonstrate reasonable progress toward that goal. The office department shall determine reasonable progress.

**2-A. Assistance with managing solid waste.** ~~A program of technical and financial assistance for waste reduction and recycling is established in the office to~~ In accordance with section 343-C, the department shall assist municipalities with managing solid waste. The office department may also provide planning assistance to municipalities and regional organizations for managing municipal solid waste. Planning assistance may include cost and capacity analysis and education and outreach activities. ~~The director department shall administer the program provide assistance pursuant to this subsection~~ in accordance with the waste management hierarchy in section 2101. Preference in allocating resources under this section must be given to municipalities that take advantage of regional economies of scale.

**2-B. Household hazardous waste collection.** The office department may, within available resources, award grants to eligible municipalities, regional associations, sanitary districts and sewer districts for

household hazardous waste collection and disposal programs. In implementing this program, the office department shall attempt to:

- A. Coordinate the household hazardous waste collection programs with overall recycling and waste management;
- B. Encourage regional economies of scale;
- C. Coordinate programs between private and public institutions;
- D. Maximize opportunities for federal grants and pilot programs; and
- E. By January 1, 2002 and as necessary thereafter, fund capital improvements and operating expenses to facilitate the development of collection programs throughout the State for hazardous waste that is universal waste, as identified in board rules, generated by households, small-quantity generators, public schools and municipalities.

Preference in allocating resources under this subsection must be given to municipalities that participate in a household hazardous waste collection region as defined in subsection 2-D.

At a minimum, the office department shall award grants to public schools and municipalities for reasonable costs incurred as a result of managing waste mercury-added products generated by those public schools and municipalities, in compliance with the requirements in sections 1663 and 1664, that would not otherwise be incurred by complying with existing laws, rules or regulations as of July 15, 2002.

**2-C. Business technical assistance program.** The office department may, as resources allow, assist the business community to develop state programs and services that are designed to promote the solid waste hierarchy and that are desired by and financially supported by the business community. The office department shall coordinate these efforts in conjunction with the department.

**2-D. Preference for other state grants and investments.** When awarding grants or making a discretionary investment under any of the programs under paragraphs A and B, a state agency shall give preference to a municipality that is part of a household hazardous waste collection region. For purposes of this subsection, "household hazardous waste collection region" means a region made up of 2 or more municipalities that work together to establish a collection center to accept the household hazardous waste of residents of each municipality for disposal on a year-round basis. This subsection applies to:

- A. Programs that assist in the acquisition of land for conservation, natural resource protection, open

space or recreational facilities under Title 5, chapter 353; and

B. Programs intended to:

- (1) Accommodate or encourage additional growth and development;
- (2) Improve, expand or construct public facilities; or
- (3) Acquire land for conservation or management of specific economic and natural resource concerns.

This subsection does not apply to state grants or other assistance for sewage treatment facilities, public health programs or education.

The office department shall work with state agencies to prepare mechanisms for establishing preferences in specific investment and grant programs as described in paragraphs A and B.

**3. Recycling capital investment grants.** The office department may make grants to eligible municipalities, regional associations, sanitary districts and sewer districts for the construction of public recycling and composting facilities and the purchase of recycling and composting equipment. The office department may establish requirements for local cost sharing of up to 50% of the total grant amount.

**4. Recycling incentives.** The office department shall develop and implement a program of incentives to encourage public recycling programs to reach maximum feasible levels of recycling and to meet the recycling goal of section 2132.

**6. Recycling demonstration grants.** The office department may make demonstration grants to eligible municipalities, regional associations or other public organizations to pilot waste reduction, recycling and composting programs and to test their effectiveness and feasibility.

**7. Recycling progress reports.** Municipalities shall report annually, on forms provided by the office department, on their solid waste management and recycling practices. The annual report must include how much of each type of solid waste is generated and how that solid waste is managed. The office department shall assist municipal reporting by developing a municipal waste stream assessment model. The model must rely on actual waste data whenever possible, but incorporate default generation estimates when needed. Default generation estimates must incorporate factors such as commercial activity, geographical differences and municipal population.

**Sec. GG-34. 38 MRSA §2134, first ¶,** as amended by PL 1995, c. 656, Pt. A, §39, is further amended to read:

The office department shall provide marketing assistance, which may include the following elements:

**Sec. GG-35. 38 MRSA §2134, sub-§3,** as amended by PL 1995, c. 656, Pt. A, §39, is further amended to read:

**3. Information clearinghouse.** An information clearinghouse on recycling markets to improve the marketing of materials to be recycled. The office department shall maintain a current list of municipal recycling programs, together with a description of the recyclable materials available through the programs. The office department shall also maintain listings of brokers, handlers, processors, transporters and other persons providing services and potential markets for recyclable materials. The office department shall actively promote the services of the clearinghouse and shall seek to match programs with appropriate recycling businesses. The office department shall make its information on recycling services available to public and private solid waste generators seeking markets or services for recyclable materials. The office department shall make its technical reports and planning documents available to municipalities and regional associations on a timely basis; and

**Sec. GG-36. 38 MRSA §2138, sub-§1,** as amended by PL 1995, c. 656, Pt. A, §41, is further amended to read:

**1. Office paper recycling mandated.** Any person employing 15 or more people at a site within the State shall implement an office paper and corrugated cardboard recycling program.

The office department may provide technical and marketing assistance and direction to entities within the State to assist with meeting this requirement. Municipalities and regional associations may assist employers in attaining the objectives of this section.

**Sec. GG-37. 38 MRSA §2140,** as amended by PL 1995, c. 656, Pt. A, §43, is further amended to read:

**§2140. Interstate and national initiatives**

The office department may participate in interstate and national initiatives to adopt uniform state laws when practicable, and to enter compacts between the State and other states for the improved management, recycling and reduction of solid waste.

**Sec. GG-38. 38 MRSA §2151-A,** as enacted by PL 1995, c. 465, Pt. A, §60 and affected by Pt. C, §2, is amended to read:

**§2151-A. Indemnification**

The office department shall defend and indemnify any employee of the office, bureau and any former employee of the former State Planning Office including the director; and any member of the former Facility Siting Board against expenses actually and neces-

sarily incurred by the person in connection with the defense of any action or proceeding in which the person is made party by reason of past or present association with the ~~office bureau or former State Planning Office~~ with regard to the powers and duties set forth in this article.

**Sec. GG-39. 38 MRSA §2152**, as amended by PL 2001, c. 352, §16, is repealed.

**Sec. GG-40. 38 MRSA §2153, sub-§1**, as amended by PL 1995, c. 465, Pt. A, §62 and affected by Pt. C, §2, is further amended to read:

**1. Siting criteria.** With regard to state-owned facilities, the ~~office bureau~~ shall administer rules adopted by the former Maine Waste Management Agency, Office of Siting and Disposal Operations, ~~and subsequently administered by the former State Planning Office pursuant to this subsection~~ for siting criteria for solid waste disposal facilities. The ~~office bureau~~ may revise rules as necessary based on the following factors.

A. A site may be located anywhere within the State and need not be in proximity to the site of waste generation.

A-1. Sites for the disposal of special waste may not be located within a 5-mile radius of an existing commercial special waste landfill or a commercial incineration facility.

B. To the extent possible, a site must be located in proximity to the transportation systems, including existing or potential railroad systems, that are used to convey waste to the site or to convey residuals and materials to be recycled from the site.

C. The capacity or size of a site must be consistent with the projected demand as determined in the state plan.

D. A site and its considered use must be consistent with, and actively support, other waste management objectives, including waste reduction and recycling.

E. The projected price for site development, construction and operation must be fair and reasonable.

F. A site must meet preliminary environmental standards developed jointly by the department and the Maine Land Use Regulation Commission, including ground water standards, geological standards and standards to protect public drinking water supplies.

G. Existing uses on adjacent properties, including public or private schools, may not be in significant conflict with or significantly jeopardized by the use of a site.

**Sec. GG-41. 38 MRSA §2154**, as amended by PL 1995, c. 465, Pt. A, §63 and affected by Pt. C, §2 and amended by c. 656, Pt. A, §§44 and 45, is further amended to read:

**§2154. Site selection**

**1. Initial site screening.** The ~~Facility Siting Board bureau~~ shall conduct a site screening and selection process to identify solid waste disposal capacity sufficient to meet the projected needs identified in the state planning process under section 2123-A, subsection 4. The ~~Facility Siting Board bureau~~ shall consider the need for geographic distribution of facilities to adequately serve all regions of the State. The ~~Facility Siting Board bureau~~ also shall consider in its site selection process the need for landfill capacity to dispose of incinerator ash resulting from the combustion of domestic and commercial solid waste generated within its jurisdiction. Prior to recommending a site, the ~~Facility Siting Board bureau~~ shall hold a public hearing in every municipality or plantation identified in the screening process as a potential site. For potential sites within an unincorporated township, the ~~Facility Siting Board bureau~~ shall hold a public hearing within the vicinity of the proposed site. Prior to submitting a recommended site to the department for review, the ~~Facility Siting Board bureau~~ must find that the recommended site meets the standards adopted under section 2153.

**2. Siting; general.** Subsequent to the siting process under subsection 1, the ~~Facility Siting Board bureau~~ shall identify additional sites as requested by the ~~office department~~ and as capacity needs are identified in the state plan. The ~~Facility Siting Board bureau~~ shall employ the same criteria and considerations employed under subsection 1. The ~~Facility Siting Board bureau~~ shall hold a public hearing in each municipality within which the ~~office bureau~~ may recommend the location of any solid waste disposal or refuse-derived fuel processing facility.

**3. Municipal reimbursement.** At the conclusion of proceedings before the ~~Facility Siting Board bureau~~ conducted pursuant to subsection 1, the ~~office bureau~~ shall reimburse a municipality for eligible expenses incurred as a result of that municipality's direct, substantive participation in proceedings before the ~~Facility Siting Board bureau~~. The amount reimbursed under this subsection may not exceed \$50,000 for any municipality. For the purposes of this subsection, "eligible expenses" has the same meaning as "expenses eligible for reimbursement" under section 1310-S, subsection 4, and any rules adopted by the Board of Environmental Protection pursuant to that section.

**Sec. GG-42. 38 MRSA §2155**, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

**§2155. Notification**

The office bureau shall notify the municipal officers of any municipality within which a waste disposal facility site is recommended under this subchapter of that recommendation. The office bureau shall notify the municipal officers by certified mail within 30 days of making the recommendation. If the proposed site is located within the jurisdiction of the Maine Land Use Regulation Commission, the office bureau shall notify the Maine Land Use Regulation Commission and the county commissioners in lieu of the municipal officers.

**Sec. GG-43. 38 MRSA §2156-A**, as amended by PL 2007, c. 192, §6, is further amended to read:

**§2156-A. Facility development**

**1. Planning for development.** The office bureau, in consultation with the department, shall plan for the development of facilities sufficient to meet needs for municipal solid waste identified in the state plan and any revisions to the plan and to serve all geographic areas of the State. The office bureau, in consultation with the department, may plan for the development of facilities sufficient to meet needs for special waste identified in the state plan and any revisions to the plan and to serve all geographic areas of the State.

**2. Recommendation for development.** When the office bureau finds that 6 years or less of licensed and available disposal capacity for municipal solid waste or special waste remains within the State, the office bureau shall submit a report recommending the construction and operation of a state-owned solid waste disposal facility for the disposal of the type of waste for which capacity is needed to the joint standing committee of the Legislature having jurisdiction over natural resource matters. The report must recommend which state agency or department will own the facility and how it will be operated. The report must also include a review of disposal options outside of the State; a review of existing efforts to reduce, reuse, recycle, compost and incinerate the affected municipal solid waste and special waste streams and the impact of these efforts on capacity requirements; a thorough economic analysis of the facility's expected costs; and commitments from entities to utilize the facility and projected revenues. It is the intent of the Legislature that the facility be operated by a private contractor. A state-owned solid waste disposal facility may not be constructed or operated unless authorized by legislation pursuant to subsection 3.

**3. Authorization for development.** The joint standing committee of the Legislature having jurisdiction over natural resource matters may report out legislation authorizing construction and operation of a state-owned solid waste disposal facility in response to a report submitted pursuant to subsection 2.

**4. Ownership, construction and operation.**

The office bureau shall maintain ownership of a site acquired for construction and operation of a state-owned solid waste disposal facility until the Legislature authorizes transfer of the site to another state department or agency, except that this subsection does not prohibit any lease or transfer of the site pursuant to an agreement entered into before the effective date of this subsection or pursuant to any amendment to such an agreement entered into before or after the effective date of this subsection.

**5. Development by others.** This section does not preclude a municipality or regional association from developing and operating solid waste disposal facilities on its own initiative.

**Sec. GG-44. 38 MRSA §2159**, as amended by PL 1995, c. 656, Pt. A, §46, is further amended to read:

**§2159. Real and personal property; right of eminent domain**

The office bureau may acquire and hold real and personal property that it considers necessary for its purposes, is granted the right of eminent domain and, for those purposes, may take and hold, either by exercising its right of eminent domain or by purchase, lease or otherwise, for public use, any land, real estate, easements or interest therein, necessary for constructing, establishing, maintaining, operating and the closure of solid waste disposal facilities.

**Sec. GG-45. 38 MRSA §2160, sub-§1**, as amended by PL 1995, c. 646, Pt. A, §47, is further amended to read:

**1. Notice to owner.** The office bureau shall provide to the owner or owners of record notice of the following:

- A. The determination of the office bureau that it proposes to exercise the right of eminent domain;
- B. A description and scale map of the land or easement to be taken;
- C. The final amount offered for the land or easement to be taken, based on the fair value as estimated by the office bureau; and
- D. Notice of the time and place of the hearing provided in subsection 4.

Notice may be made by personal service in hand by an officer duly qualified to serve civil process in this State or by certified mail, return receipt requested, to the last known address of the owner or owners. If the owner or owners are not known or can not be notified by personal service or certified mail, notice may be given by publication in the manner provided in subsection 4.

**Sec. GG-46. 38 MRSA §2160, sub-§4**, as amended by PL 1995, c. 656, Pt. A, §47, is further amended to read:

**4. Hearing.** The office bureau shall hold a public hearing on the advisability of its proposed exercise of the right of eminent domain. Notice of the hearing must be made by publication in a newspaper of general circulation in the area of the taking and published once a week for 2 successive weeks, the last publication to be at least 2 weeks before the time appointed in the hearing. The hearing notice must include:

- A. The time and place of the hearing;
- B. A description of the land or easement to be taken; and
- C. The name of the owners, if known.

**Sec. GG-47. 38 MRSA §2161**, as amended by PL 1995, c. 656, Pt. A, §48, is further amended to read:

**§2161. Condemnation proceedings**

At the time the office bureau sends the notice in section 2160, the office bureau shall file in the county commissioner's office in which the property to be taken is located and cause to be recorded in the registry of deeds in the county plans of the location of all lands, real estate, easements or interest therein, with an appropriate description and the names of the owners thereof, if known. When for any reason the office bureau fails to acquire property that it is authorized to take, which is described in that location, or if the location so recorded is defective and uncertain, it may, at any time, correct and perfect the location and file a new description. In that case, the office bureau is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the office bureau is not liable for any acts that would have been justified if the original taking had been lawful. No entry may be made on any private lands, except to make surveys, until the expiration of 10 days from the filing, whereupon, possession may be had of all the lands, real estate, easements or interests therein and other property and rights as aforesaid to be taken, but title may not vest in the office bureau until payment for the property is made.

**Sec. GG-48. 38 MRSA §2162**, as repealed and replaced by PL 1999, c. 736, §2, is amended to read:

**§2162. Assistance in regional association siting**

**1. Technical assistance.** Upon request by a regional association, the office bureau may provide technical assistance to that regional association in the establishment of approved waste facilities, including assistance in planning, location, acquisition, development and operation of the site. The regional associa-

tion shall describe fully the need and justification for the request. The office bureau may request information from the regional association necessary to provide assistance.

**2. Submission of report recommending construction of state-owned facility.** When the office bureau, in consultation with a regional association, finds that disposal capacity is projected to be needed for bulky wastes, construction or demolition waste or land-clearing debris and that the regional association is not able to pursue the siting, establishment and operation of a waste facility, the office bureau may submit a report recommending the construction and operation of a state-owned solid waste disposal facility that will fulfill the disposal need to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The report must include a review of disposal options outside of the State; a review of existing efforts to reduce, reuse, recycle, compost and incinerate the affected waste streams and the impact of these efforts on capacity requirements; a thorough economic analysis of the facility's expected costs; and commitments from entities to utilize the facility and projected revenues. The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation authorizing the construction and operation of a state-owned solid waste disposal facility in response to a report submitted pursuant to this subsection.

**Sec. GG-49. 38 MRSA §2170**, as amended by PL 1995, c. 656, Pt. A, §51, is further amended to read:

**§2170. Host community benefits; application limited to facilities owned or operated by the bureau**

This subchapter applies only to solid waste disposal facilities owned or operated by the office bureau. Wherever in this subchapter the term "solid waste disposal facility" or "facility" is used, those terms may be construed only to mean a solid waste disposal facility owned or operated by the office bureau.

**Sec. GG-50. 38 MRSA §2170-A, first ¶**, as enacted by PL 2007, c. 406, §3, is amended to read:

The provisions of this section apply to a solid waste disposal facility owned or operated by the office bureau.

**Sec. GG-51. 38 MRSA §2171, first ¶**, as amended by PL 1993, c. 310, Pt. B, §3, is further amended to read:

The municipal officers of each municipality identified by the ~~Facility Siting Board~~ bureau as a potential site for a waste disposal facility and each contiguous municipality that may be affected by the construction or operation of that facility shall jointly establish a

single citizen advisory committee within 60 days of notification pursuant to section 2155.

**Sec. GG-52. 38 MRSA §2172, first ¶**, as repealed and replaced by PL 2007, c. 406, §4, is amended to read:

In the event that the ~~office~~ bureau and a host community cannot agree on the terms of a host community agreement pursuant to section 2170-A, the parties shall submit the dispute for resolution in accordance with this section.

**Sec. GG-53. 38 MRSA §2172, sub-§2, ¶A**, as enacted by PL 2007, c. 406, §4, is amended to read:

A. Both the ~~office~~ bureau and the host community will be bound by the decision of the arbitrator.

**Sec. GG-54. 38 MRSA §2173**, as amended by PL 1995, c. 656, Pt. A, §53, is further amended to read:

**§2173. Municipal jurisdiction over regional association disposal facilities**

A municipality may adopt a local ordinance authorizing the municipal officers to issue a local permit containing the same findings, conclusions and conditions contained in the license issued by the department for a solid waste disposal facility located within the municipality's jurisdiction. The municipal officers may also attach to the permit additional conditions for the operation of the solid waste disposal facility on any issues not specifically addressed in any condition of the department's license. These conditions may not unreasonably restrict the operation of the facility and must be attached to the local permit by the municipal officers within 90 days of issuance of the department's license or within 30 days of a final decision by the department to relicense the facility.

An enforcement action brought by the municipality to enforce local permit conditions ~~shall~~ does not preclude the State from bringing an action to enforce the conditions of any license issued by the State or any other provision of law. In addition, the State ~~shall have~~ has a right to intervene in any enforcement action brought by a municipality under this section. A municipality that has adopted local permit conditions described in this section shall employ an inspector certified under section 2174 to enforce permit conditions.

**Sec. GG-55. 38 MRSA §2174, sub-§2**, as amended by PL 1995, c. 656, Pt. A, §54, is further amended to read:

**2. Information.** The host municipality of a solid waste disposal facility has a right to all information from the department and the ~~office~~, bureau pursuant to Title 1, chapter 13, subchapter ~~1~~ 1. All information provided under this subsection must be made available

to the citizen advisory committee and the public by the host municipality.

A. The commissioner shall provide all of the following information to the municipal officers of the host municipality:

(1) Copies of any inspection report of the facility within 5 working days of the preparation of the report;

(2) Prompt notification of all enforcement or emergency orders for those facilities, including, but not limited to, abatement orders, cessation orders, final civil penalty assessments, consent orders and decrees and notices of violation;

(3) Copies of all air, soil and water quality monitoring data collected by the commissioner at such facilities, including leachate and ash testing results, within 5 working days after complete laboratory analysis becomes available to the commissioner; and

(4) Copies of all analyses of the data under subparagraph (3).

B. The operator of the facility shall provide the host municipality copies of all air, soil and water quality monitoring data, including leachate and ash testing results, conducted by or on behalf of the operator, within 5 days after that information becomes available to the operator.

C. The municipality shall provide all of the following information to the commissioner:

(1) Copies of any inspection report of the facility within 5 working days of the preparation of the report;

(2) Prompt notification of all enforcement or emergency orders for those facilities, including, but not limited to, abatement orders, cessation orders, final civil penalty assessments, consent orders and decrees and notices of violation;

(3) Copies of all air, soil and water quality monitoring data collected by the municipality at such facilities, including leachate and ash testing results, within 5 working days after complete laboratory analysis becomes available to the municipality; and

(4) Copies of all analyses of the data under subparagraph (3).

**Sec. GG-56. 38 MRSA §2175-A**, as amended by PL 1995, c. 656, Pt. A, §55, is further amended to read:

**§2175-A. Property value offset**

Owners of property, the value of which has been affected by a solid waste disposal facility, are eligible for reimbursement from the ~~office~~ bureau for loss in property value directly attributable to the construction and operation of the facility. The ~~office~~ bureau shall adopt rules to establish the formula and procedure for reimbursement, including, without limitation, definition of the impact area, a process for establishing base-line real estate values, a time frame within which the property value offset program will be in effect and an accounting of real estate trends in the area.

**Sec. GG-57. 38 MRSA §2175-B**, as enacted by PL 1995, c. 465, Pt. A, §70 and affected by Pt. C, §2, is amended to read:

**§2175-B. Payment in lieu of taxes**

The ~~office~~ bureau shall annually pay a municipality an amount in lieu of taxes equal to the amount of property taxes on a solid waste disposal facility owned or operated by the ~~office~~ bureau not paid to that municipality during the previous calendar year. In the case of an unorganized territory, the ~~office~~ bureau shall annually pay the amount to the State Tax Assessor who shall deposit that amount in the Unorganized Territory Education and Services Fund established in Title 36, chapter 115. If the ~~office~~ bureau disagrees with the amount determined to be due in lieu of taxes under this section, it may appeal to the State Board of Property Tax Review as provided in Title 36, section 271.

**Sec. GG-58. 38 MRSA §2176, first ¶**, as amended by PL 1995, c. 656, Pt. A, §56, is further amended to read:

In addition to payment in lieu of taxes provided in section 2175-B, the ~~office~~ bureau shall make impact payments to a municipality in which a solid waste disposal facility is located or, in the case of an unorganized territory, to the State Tax Assessor upon request by the community involved or by the State Tax Assessor. The ~~office~~ bureau shall base its impact payments on measurable criteria including, without limitation:

**Sec. GG-59. 38 MRSA §2176, sub-§4**, as enacted by PL 2007, c. 406, §7, is amended to read:

**4. Other issues.** Other issues determined on a case-specific basis by the applicant and ~~office~~ bureau to be appropriate given the nature of the proposed facility.

**Sec. GG-60. 38 MRSA §2177**, as amended by PL 1995, c. 656, Pt. A, §57, is further amended to read:

**§2177. Water supply monitoring and protection**

Upon written request from persons owning land contiguous to a solid waste disposal facility, the ~~office~~ bureau shall have quarterly sampling and analysis

conducted of private water supplies used by the requestors for drinking water. The sampling and analysis must be conducted in a manner specified by and that meets criteria developed by the department.

If a facility adversely affects a public or private water supply by pollution, degradation, diminution or other means that result in a violation of the state drinking water standards as determined by the commissioner, the ~~office~~ bureau shall restore the affected supply at no cost to the consumer or replace the affected supply with an alternative source of water that is of like quantity and quality to the original supply at no cost to the consumer.

**1. Extent of analysis.** Water supplies must be analyzed for all parameters or chemical constituents determined by the commissioner to be indicative of typical contamination from solid waste disposal facilities. The laboratory performing the sampling and analysis shall provide written copies of sample results to the ~~office~~ bureau, the landowner and to the commissioner.

**2. Additional sampling required.** If the analysis indicates possible contamination from a solid waste disposal facility, the commissioner shall conduct, or require the ~~office~~ bureau to conduct, additional sampling and analysis to determine more precisely the nature, extent and source of contamination. The commissioner shall, if necessary, require this sampling beyond the boundaries of the contiguous property.

**3. Written notice of rights.** On or before December 1, 1989, for permits issued under this chapter prior to October 1, 1989, and at or before the time of permit issuance for permits issued under this chapter after October 1, 1989, the ~~office~~ bureau shall provide owners of contiguous land with written notice of their rights under this section on a form prepared by the commissioner.

**Sec. GG-61. 38 MRSA §2191**, as amended by PL 1995, c. 656, Pt. A, §58, is further amended to read:

**§2191. Fees**

The ~~office~~ bureau shall establish reasonable fees for waste disposal services provided by the ~~office~~ bureau.

**Sec. GG-62. 38 MRSA §2192**, as amended by PL 1995, c. 656, Pt. A, §§59 and 60, is further amended to read:

**§2192. Purposes of the fees**

The fees charged to users of ~~office-owned~~ state-owned facilities and established by the ~~office~~ bureau under this article, by rule, provide revenue for the following purposes:

**1. Current expenses.** To pay the current expenses, either incurred directly or through contractual

agreements with another party or parties, for operating and maintaining a facility or delivering a service and to provide for normal maintenance and replacement of equipment. Current expenses also include costs incurred under subchapter ~~¶~~ 5;

**2. Interest.** To provide for the payment of interest on the indebtedness created or assumed by the ~~office~~ bureau;

**3. Indebtedness.** To provide an annual sum equal to not less than 2% nor more than 10% of the term indebtedness represented by the issuance of bonds created or assumed by the ~~office~~ bureau, which sum must be turned into a sinking fund and there maintained to provide for the extinguishment of term indebtedness. The money set aside in this sinking fund must be devoted to the retirement of the term obligations of the ~~office~~ bureau and may be invested in such securities as savings banks in the State are allowed to hold;

**4. Principal payments.** To provide for annual principal payments on serial indebtedness created or assumed by the ~~office~~ bureau;

**5. Contingency reserve fund allowance.** To provide for a contingency reserve fund allowance by providing rates to reflect up to a 5% addition to yearly revenues over that required to operate the facility;

**6. Closing reserve fund.** To provide for a closing and monitoring reserve fund by providing rates which, over the expected life span of the facility including the post-closure monitoring period, will generate the amount determined to be necessary by the department in its licensing process under chapter 13; and

**7. Compliance costs.** To provide for the costs associated with licensing, compliance and enforcement efforts of the department.

**Sec. GG-63. 38 MRSA §2193**, as amended by PL 1995, c. 656, Pt. A, §61, is further amended to read:

**§2193. Host municipality fees**

The ~~office~~ bureau may set fees under this article for the host municipality at a level lower than the fees charged to other municipalities or users, ~~provided that~~ as long as the lower fees are set in a manner consistent with the rules ~~promulgated~~ adopted by the ~~office~~ bureau.

**Sec. GG-64. 38 MRSA §2201**, as amended by PL 2011, c. 544, §1, is further amended to read:

**§2201. Maine Solid Waste Management Fund established**

The Maine Solid Waste Management Fund, referred to in this section as the "fund," is established as a nonlapsing fund to support programs administered

by the ~~State Planning Office~~ bureau and the Department of Environmental Protection. The fund must be segregated into 2 subsidiary accounts. The first subsidiary account, called operations, receives all fees established and received under article 1. The 2nd subsidiary account, called administration, receives all fees established under this article and under Title 36, chapter 719 and all funds recovered by the department as reimbursement for departmental expenses incurred to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste.

Money in the fund not currently needed to meet the obligations of the ~~office~~ department or bureau must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on these investments must be credited to the fund.

Funds related to administration may be expended only in accordance with allocations approved by the Legislature for administrative expenses directly related to the ~~office's~~ bureau's and the department's programs, including actions by the department necessary to abate threats to public health, safety and welfare posed by the disposal of solid waste. Funds related to fees imposed on the disposal of construction and demolition debris and residue from the processing of construction and demolition debris may be expended only for the state cost share to municipalities under the closure and remediation cost-sharing program for solid waste landfills established in section 1310-F. Funds related to operations may be expended only in accordance with allocations approved by the Legislature and solely for the development and operation of publicly owned facilities owned or approved by the ~~office~~ bureau and for the repayment of any obligations of the ~~office~~ bureau incurred under article 3. These allocations must be based on estimates of the actual costs necessary for the ~~office~~ bureau and the department to administer their programs, to provide financial assistance to regional associations and to provide other financial assistance necessary to accomplish the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and thereafter, the fund must annually transfer to the General Fund an amount necessary to reimburse the costs of the Bureau of Revenue Services incurred in the administration of Title 36, chapter 719. Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all ~~office~~ bureau activities other than those included in the operations account.

**Sec. GG-65. 38 MRSA §2232, first ¶**, as amended by PL 1995, c. 656, Pt. A, §65, is further amended to read:

An incineration facility shall submit an annual report to the ~~office~~ department no later than 90 days after the end of the incineration facility's fiscal year. For reasonable cause shown and upon written applica-

tion by an incineration facility, the office department may grant an extension of the 90-day period. The report must be certified by an appropriate executive officer of the incineration facility as being complete and accurate. The office department may prescribe the form of the annual report and the number of copies that must be submitted. The report must include the following information:

**Sec. GG-66. 38 MRSA §2232, sub-§§4 and 5**, as amended by PL 1995, c. 656, Pt. A, §66, are further amended to read:

**4. Expenditures.** The total expenditures of the incineration facility during the last completed fiscal year including details of those expenditures as required by the office department; and

**5. Other information.** Any other information required by the office department.

**Sec. GG-67. 38 MRSA §2235**, as amended by PL 1995, c. 656, Pt. A, §67, is further amended to read:

**§2235. Use of files**

The office department shall keep on file for public inspection and use all reports submitted under this subchapter.

**Sec. GG-68. 38 MRSA §2236**, as corrected by RR 1993, c. 1, §138 and amended by PL 1995, c. 656, Pt. A, §68, is further amended to read:

**§2236. Limitation**

Nothing in this subchapter may be construed to create or expand any office authority of the department over financial, organizational or rate regulation of incineration facilities.

**Sec. GG-69. Transition provisions; waste management-related and recycling-related matters.** The following provisions apply to the reassignment of waste management-related and recycling-related duties, responsibilities and activities of the Executive Department, State Planning Office to the Department of Environmental Protection, the Department of Administrative and Financial Services, Bureau of General Services and the Department of Economic and Community Development, Office of Community Development.

1. One authorized, unclassified position and incumbent personnel as of April 1, 2012 in the Executive Department, State Planning Office assigned to that office's waste management and recycling program are transferred to the Department of Economic and Community Development, Office of Community Development. Those employees retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits. The Department of Economic and Community Development, Office of Community Development and

the Department of Administrative and Financial Services, Bureau of General Services shall enter into a memorandum of agreement under which personnel transferred to the Office of Community Development by this section shall assist the Bureau of General Services in the performance of its functions and duties under the Maine Revised Statutes, Title 38, chapter 24.

2. All rights, duties, authorities, responsibilities and related assets and liabilities, if any, assigned to the Executive Department, State Planning Office pursuant to Resolve 2003, chapter 93 and Resolve 2011, chapter 90 are assigned to and must be exercised by the Department of Administrative and Financial Services, Bureau of General Services.

3. All real property acquired by the Executive Department, State Planning Office pursuant to Public Law 1995, chapter 464, Resolve 2003, chapter 93 and Resolve 2011, chapter 90 is transferred to the Department of Administrative and Financial Services, Bureau of General Services.

4. Notwithstanding any other provision of law, the Department of Environmental Protection shall approve transfer of all licenses, permits and other authorizations issued by the department to the Executive Department, State Planning Office for construction and operation of state-owned waste disposal facilities referenced in subsection 2 to the Department of Administrative and Financial Services, Bureau of General Services. Within 60 days of the effective date of this section, the Department of Administrative and Financial Services, Bureau of General Services shall submit to the Department of Environmental Protection applications for transfer of all licenses, permits and other authorizations for the state-owned solid waste disposal facilities referenced in subsection 2. Notwithstanding any other provision of law, until the Department of Environmental Protection has approved the transfers required by this section, the Department of Administrative and Financial Services, Bureau of General Services is deemed to be the licensee or permittee of all licenses, permits and other authorizations for the state-owned solid waste disposal facilities referenced in subsection 2.

**Sec. GG-70. Effective date.** This Part takes effect July 1, 2012.

**PART HH**

**Sec. HH-1. 12 MRSA §408** is enacted to read:

**§408. Floodplain management**

The floodplain management program is established within the Department of Conservation. The department shall serve as the state coordinating agency for the National Flood Insurance Program pursuant to 44 Code of Federal Regulations, Part 60 and in that capacity shall oversee delivery of technical assistance and resources to municipalities for the purpose of

floodplain management activities and shall administer the State Floodplain Mapping Fund under section 409.

**Sec. HH-2. 12 MRSA §409** is enacted to read:

**§409. State Floodplain Mapping Fund**

**1. Fund established.** The State Floodplain Mapping Fund, referred to in this section as "the fund," is established as a dedicated, nonlapsing fund administered by the Department of Conservation for the purpose of providing funds for the mapping of floodplains in the State using light detection and ranging technology.

**2. Sources of funding.** The fund consists of any money received from the following sources:

A. Contributions from private sources;

B. Federal funds and awards;

C. The proceeds of any bonds issued for the purposes for which the fund is established; and

D. Any other funds received in support of the purposes for which the fund is established.

**3. Disbursements from the fund.** The Department of Conservation shall apply the money in the fund toward the support of floodplain mapping in the State, including, but not limited to, the acquisition of light detection and ranging elevation data and the processing and production of floodplain maps.

**Sec. HH-3. 37-B MRSA §1112**, as amended by PL 2009, c. 561, §35, is further amended to read:

**§1112. Administration**

The department shall administer this chapter. In carrying out the provisions of this chapter, the department shall consult as appropriate with other state agencies, including the Department of Conservation, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Public Safety, the Department of Transportation, ~~and the Maine Land Use Regulation Commission and the State Planning Office~~, for their aid and assistance.

**Sec. HH-4. 37-B MRSA §1119, sub-§3**, as amended by PL 2009, c. 561, §36, is further amended to read:

**3. Review conference.** After receiving the inspector's report and prior to issuing any dam safety order, the commissioner shall hold a review conference and shall invite the emergency management director of the county in which the dam is located to the review conference as well as representatives from appropriate state agencies, which may include the Department of Conservation, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife, the Department of Marine Resources, the Department of Public Safety, the Depart-

ment of Transportation, ~~and the Maine Land Use Regulation Commission and the State Planning Office~~, to discuss the public safety, environmental, economic and other concerns relating to the dam and the necessary remedial measures under consideration. A state dam inspector shall attend the review conference. The commissioner shall maintain a written record of the conference and shall make a copy of this record available to all parties participating in the conference.

**Sec. HH-5. 37-B MRSA §1131, sub-§2, ¶G**, as enacted by PL 2001, c. 662, §99, is repealed.

**Sec. HH-6. Transition provisions; floodplain management matters.** The following provisions apply to the reassignment of floodplain management duties, responsibilities and activities of the Executive Department, State Planning Office to the Department of Conservation.

1. The Governor shall, pursuant to 44 Code of Federal Regulations, Part 60, designate the Department of Conservation as the state coordinating agency for purposes of the National Flood Insurance Program.

2. Three authorized positions and incumbent personnel as of April 1, 2012 in the State Planning Office assigned to that office's floodplain management program are transferred to the Department of Conservation's floodplain management program established in the Maine Revised Statutes, Title 12, section 408. Those employees retain their rights as unclassified employees as well as their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

3. Notwithstanding the provisions of Title 5 and except as otherwise provided in subsection 4, the State Controller, upon request of the State Budget Officer and with the approval of the Governor, shall transfer to the proper account in the Department of Conservation all accrued expenditures, assets and liabilities, including but not limited to any contractual obligations, balances, appropriations, allocations, transfers, revenues or other available funds in any account or subdivision of an account of the State Planning Office established for administration of floodplain management-related grant funds from the Federal Emergency Management Agency. Transfers authorized under this subsection do not change or otherwise affect the purposes or uses for which any funds transferred pursuant to this subsection may be expended.

4. On the effective date of this section, the State Controller shall transfer any unexpended and unencumbered balance in the Floodplain Mapping Fund established by former Title 5, section 3307-G to the State Floodplain Mapping Fund established by Title 12, section 409.

**Sec. HH-7. Effective date.** This Part takes effect July 1, 2012.

## PART II

**Sec. II-1. 5 MRSA §6204, sub-§1**, as amended by PL 1993, c. 728, §6, is further amended to read:

**1. Composition.** The board consists of 11 members, ~~6~~ 7 who are private citizens and ~~5~~ 4 who are permanent members. The permanent members are the Commissioner of Conservation; the Commissioner of Inland Fisheries and Wildlife; the Commissioner of Marine Resources; and the Commissioner of Agriculture, Food and Rural Resources; ~~and the Director of the State Planning Office.~~

**Sec. II-2. 5 MRSA §6204, sub-§6**, as amended by PL 1993, c. 728, §6, is further amended to read:

**6. Assistance.** The Department of Conservation; the Department of Inland Fisheries and Wildlife; the Department of Transportation; the Department of Agriculture, Food and Rural Resources; ~~the State Planning Office~~; and all other state agencies shall provide staff support and assistance considered necessary by the board to fulfill the objectives of this chapter. If agency assistance is not available, consultants may be hired from the proceeds of either the Land for Maine's Future Fund or the Public Access to Maine Waters Fund to assist the board in carrying out its responsibilities.

**Sec. II-3. 12 MRSA §544, sub-§3, ¶G** is enacted to read:

G. The Natural Areas Program shall provide staff assistance to support the Land for Maine's Future Board established under Title 5, chapter 353.

**Sec. II-4. 12 MRSA §6072, sub-§7-A, ¶F**, as amended by PL 2003, c. 660, Pt. A, §6, is further amended to read:

F. The lease does not unreasonably interfere with public use or enjoyment within 1,000 feet of a beach, park or docking facility owned by the Federal Government, the State Government or a municipal governmental agency or certain conserved lands. For purposes of this paragraph, "conserved lands" means land in which fee ownership has been acquired by the municipal government, State Government or Federal Government in order to protect the important ecological, recreational, scenic, cultural or historic attributes of that property.

~~The Executive Department, State Planning Office~~ Department of Conservation shall maintain a list of conserved lands. The commissioner shall request this information from the ~~State Planning Office~~ Department of Conservation prior to holding a preapplication proceeding.

**Sec. II-5. 12 MRSA §6673, sub-§2-A**, as amended by PL 2009, c. 229, §16, is further amended to read:

**2-A. Decision.** In evaluating a proposed municipal shellfish aquaculture permit, a municipal officer shall take into consideration the number and density of permits and leases in the area and may issue the permit if the municipal officer finds the proposed project meets the following criteria.

A. The permit conforms to the municipality's shellfish conservation program.

B. The permit will not cause the total area under all municipal shellfish aquaculture permits in the municipality to exceed 1/4 of the entire municipal intertidal zone that is open to the taking of shellfish.

C. Issuing the permit is in the best interests of the municipality.

D. The permit will not unreasonably interfere with ingress and egress of riparian owners.

E. The permit will not unreasonably interfere with navigation.

F. The permit will not unreasonably interfere with fishing or other uses of the area. For purposes of this paragraph, "fishing" includes public access to a redeemable shellfish resource, as defined by the department, for the purpose of harvesting, provided that the resource is commercially significant and is subject to a pollution abatement plan that predates the permit application, that includes verifiable activities in the process of implementation and that is reasonably expected to result in the opening of the area to the taking of shellfish within 3 years.

G. The permit will not unreasonably interfere with significant wildlife habitat and marine habitat or with the ability of the site affected by the permit and surrounding marine and upland areas to support existing ecologically significant flora and fauna.

H. The applicant has demonstrated that there is an available source of organisms to be cultured for the site affected by the permit.

I. The permit does not unreasonably interfere with public use or enjoyment within 1,000 feet of a beach, park or docking facility owned by the Federal Government, the State Government or a municipal government or conserved lands. For purposes of this paragraph, "conserved lands" means land in which fee ownership has been acquired by the municipal government, State Government or Federal Government in order to protect the important ecological, recreational, scenic, cultural or historic attributes of that property.

A municipality shall review the ~~Executive Department, State Planning Office's~~ Department of Conservation's list of conserved lands compiled pursuant to section 6072, subsection 7-A, paragraph F prior to issuing a municipal shellfish aquaculture permit.

A municipality shall put its findings on each of the criteria listed in this subsection in writing and make those findings available to the public.

**Sec. II-6. 33 MRSA §132, sub-§4**, as enacted by PL 2005, c. 574, §1, is amended to read:

**4. Filing.** A working waterfront covenant must be recorded in the County Registry of Deeds, and a copy of the covenant must be filed with the ~~Executive Department, State Planning Office~~ Department of Conservation together with a map showing with specificity the location of the affected real estate on the form or forms that the ~~State Planning Office~~ department requires.

**Sec. II-7. 33 MRSA §479-C**, as enacted by PL 2007, c. 412, §10, is amended to read:

**§479-C. Conservation easement registry**

A holder of a conservation easement that is organized or doing business in the State shall annually report to the ~~Executive Department, State Planning Office~~ Department of Conservation the book and page number at the registry of deeds for each conservation easement that it holds, the municipality and approximate number of acres protected under each easement and such other information as the ~~State Planning Office~~ Department of Conservation determines necessary to fulfill the purposes of this subchapter. The filing must be made by a date and on forms established by the ~~State Planning Office~~ Department of Conservation to avoid duplicative filings when possible and otherwise reduce administrative burdens. The annual filing must be accompanied by a \$30 fee. The ~~State Planning Office~~ Department of Conservation shall maintain a permanent record of the registration and report to the Attorney General any failure of a holder disclosed by the filing or otherwise known to the ~~State Planning Office~~ Department of Conservation. The fees established under this section must be held by the ~~State Planning Office~~ Department of Conservation in a nonlapsing, special account to defray the costs of maintaining the registry and carrying out its duties under this section.

**Sec. II-8. 36 MRSA §305, sub-§6**, as enacted by PL 2001, c. 564, §4, is amended to read:

**6. Report on changes in land ownership.** On or before September 1st of each year, report to the Commissioner of Conservation, the Commissioner of Inland Fisheries and Wildlife, ~~the Director of the State Planning Office within the Executive Department~~ and the joint standing committee of the Legislature having jurisdiction over public lands on the transfer in owner-

ship of parcels of land 10,000 acres or greater within the unorganized territory of the State. Using information maintained by the State Tax Assessor under section 1602 and section 4641-D, the bureau shall provide information for each transfer that includes:

- A. Name of the seller;
- B. Name of the buyer;
- C. Number of acres transferred;
- D. Classification of land;
- E. Location by township and county;
- F. Sale price; and
- G. A brief description of the property.

**Sec. II-9. 36 MRSA §1140-B, sub-§1**, as enacted by PL 2007, c. 466, Pt. A, §58, is amended to read:

**1. Analysis.** The State Tax Assessor, in consultation with municipal assessors, the ~~director of the Land for Maine's Future Program within the Executive Department, State Planning Office~~ Commissioner of Conservation or the commissioner's designee, representatives of working waterfront organizations and other interested parties, shall collect and analyze the sales prices of all actual sales that occur in the State of waterfront land that is subject to restrictions on that land's use that are legally enforceable and prohibit or substantially restrict development that is not commercial fishing activity or commercial activity that is the functional equivalent of commercial fishing activity.

**Sec. II-10. Transition provisions; Land for Maine's Future Board matters.** The following provisions apply to the reassignment of duties, responsibilities and activities of the Executive Department, State Planning Office related to the Land for Maine's Future Board established in the Maine Revised Statutes, Title 5, chapter 353 to the Department of Conservation, Natural Areas Program established by Title 12, section 544.

1. Three authorized positions and incumbent personnel as of April 1, 2012 in the State Planning Office assigned to provide staff assistance to the Land for Maine's Future Board are transferred to the Natural Areas Program. Those employees retain their rights as unclassified employees as well as their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

2. Notwithstanding the provisions of Title 5, the State Controller, upon request of the State Budget Office and with the approval of the Governor, shall transfer from the State Planning Office to the proper account in the Department of Conservation all accrued expenditures, assets and liabilities, including but not limited to any contractual obligations, balances, ap-

proprations, allocations, transfers, revenues and other available funds, in any account or subdivision of any account of the Land for Maine's Future Fund, established by Title 5, section 6203. Nothing in this section changes or is intended to change or otherwise affect the purposes or uses for which any funds transferred pursuant to this section may be expended.

**Sec. II-11. Effective date.** This Part takes effect July 1, 2012.

## PART JJ

**Sec. JJ-1. 5 MRSA §298, sub-§1,** as enacted by PL 1977, c. 513, §1, is repealed and the following enacted in its place:

**1. Commissioner of Conservation.** The Commissioner of Conservation, or the commissioner's designee;

**Sec. JJ-2. 5 MRSA §13056-E, sub-§4,** as enacted by PL 2009, c. 414, Pt. G, §2 and affected by §5, is amended to read:

**4. Coordination.** The department shall coordinate the grants made under this section with community assistance loans and grants administered by the department and with other state assistance programs designed to accomplish similar objectives, including those administered by the Department of Education, the Department of Transportation, ~~the Executive Department, State Planning Office,~~ the Finance Authority of Maine, the Maine State Housing Authority, the Maine Historic Preservation Commission, the Department of Administrative and Financial Services, the Department of Conservation and the Department of Environmental Protection.

**Sec. JJ-3. 5 MRSA §13058, sub-§19,** as enacted by PL 2003, c. 498, §1, is amended to read:

**19. Coordinate assessment of transportation needs related to economic development projects.** The commissioner shall coordinate the activities of the department, ~~the State Planning Office within the Executive Department~~ the Department of Conservation, the Department of Transportation and regional planning and economic development organizations to ensure that the location of rail lines, potential use of passenger and freight rail and costs of transportation improvements related to development are considered during initial planning and locating of projects reviewed by the commissioner in administering economic development programs under this chapter.

**Sec. JJ-4. 5 MRSA §13073-B** is enacted to read:

### **§13073-B. Maine Downtown Center**

**1. Establishment.** The Maine Downtown Center, referred to in this section as "the center," is established to encourage downtown revitalization in the State.

**2. Purpose.** The center serves the following functions:

A. To advocate for downtown revitalization;

B. To promote awareness about the importance of vital downtowns;

C. To serve as a clearinghouse for information relating to downtown development; and

D. To provide training and technical assistance to communities that demonstrate a willingness and ability to revitalize their downtowns.

**3. Collaboration.** The Department of Conservation shall work collaboratively with the Commissioner of Economic and Community Development, the Maine Development Foundation and other state agencies to coordinate the programs of the center.

**4. Funding.** The center shall develop a plan for the ongoing funding of the center.

**5. Definition.** For the purposes of this section, "downtown" has the same meaning as in Title 30-A, section 4301, subsection 5-A.

**Sec. JJ-5. 12 MRSA §212, sub-§3,** as amended by PL 1979, c. 541, Pt. A, §116 and PL 1995, c. 532, §17, is further amended to read:

**3. Interdepartmental cooperation.** The Department of Agriculture, Food and Rural Resources shall consult with other state resource agencies ~~and the State Planning Office~~ in setting priorities of soils mapping and the publication of interim soils reports.

**Sec. JJ-6. 12 MRSA §685-C, sub-§1, ¶B,** as amended by PL 2009, c. 375, §1, is repealed.

**Sec. JJ-7. 12 MRSA §685-C, sub-§1, ¶C,** as amended by PL 2009, c. 375, §1, is further amended to read:

C. The commission has considered all comments submitted under ~~paragraphs~~ paragraph A ~~and B;~~ and

**Sec. JJ-8. 12 MRSA §1847, sub-§2,** as amended by PL 1999, c. 556, §19, is further amended to read:

**2. Management plans.** The director shall prepare, revise from time to time and maintain a comprehensive management plan for the management of the public reserved lands in accordance with the guidelines in this subchapter. The plan must provide for a flexible and practical approach to the coordinated management of the public reserved lands. In preparing, revising and maintaining such a management plan the director, to the extent practicable, shall compile and maintain an adequate inventory of the public reserved lands, including not only the timber on those lands but also the other multiple use values for which the public reserved lands are managed. In addition,

the director shall consider all criteria listed in section 1858 for the location of public reserved lands in developing the management plan. The director is entitled to the full cooperation of the Bureau of Geology and Natural Areas and Coastal Resources, the Department of Inland Fisheries and Wildlife, and the Maine Land Use Regulation Commission and the State Planning Office in compiling and maintaining the inventory of the public reserved lands. The director shall consult with those agencies as well as other appropriate state agencies in the preparation and maintenance of the comprehensive management plan for the public reserved lands. The plan must provide for the demonstration of appropriate management practices that will enhance the timber, wildlife, recreation, economic and other values of the lands. All management of the public reserved lands, to the extent practicable, must be in accordance with this management plan when prepared.

Within the context of the comprehensive management plan, the commissioner, after adequate opportunity for public review and comment, shall adopt a specific action plan for each unit of the public reserved lands system. Each action plan must include consideration of the related systems of silviculture and regeneration of forest resources and must provide for outdoor recreation including remote, undeveloped areas, timber, watershed protection, wildlife and fish. The commissioner shall provide adequate opportunity for public review and comment on any substantial revision of an action plan. Management of the public reserved lands before the action plans are completed must be in accordance with all other provisions of this section.

**Sec. JJ-9. 23 MRSA §73, sub-§4**, as amended by PL 2003, c. 22, §1, is further amended to read:

**4. Rulemaking.** The Department of Transportation shall adopt a rule within one year of the effective date of this Act, in coordination with the Maine Turnpike Authority and state agencies including the Department of Economic and Community Development, the ~~State Planning Office~~ Department of Conservation and the Department of Environmental Protection, to implement the statewide comprehensive transportation policy. The rule must incorporate a public participation process that provides municipalities and other political subdivisions of the State and members of the public notice and opportunity to comment on transportation planning decisions, capital investment decisions, project decisions and compliance with the statewide transportation policy.

The Department of Transportation shall adopt a rule, in coordination with the ~~State Planning Office~~ Department of Conservation, that establishes linkage between the planning processes outlined in this section and those promoted by Title 30-A, chapter 187, subchapter 2 and that promotes investment incentives for

communities that adopt and implement land use plans that minimize over-reliance on the state highway network. This rule is a major substantive rule as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. JJ-10. 23 MRSA §7105, sub-§3, ¶A**, as amended by PL 1989, c. 600, Pt. A, §§11 and 12 and c. 626, is further amended to read:

A. Before dismantling any track that results in a cessation of rail service upon all or part of a railroad line, or offering any railroad property for sale, or upon the abandonment of service along all or a portion of a railroad line, the department ~~shall~~ must be given the first option to lease or purchase, on just and reasonable terms, the railroad line, any part of the railroad line or other property. In the event that a lease is negotiated for the rights-of-way, the department shall consult with municipal officials and officers in the municipalities affected by the abandonment of service along the line to determine the need for preserving the rights-of-way along the abandoned portion of the line for rail transportation. If the department finds that the welfare of the State would be significantly and adversely affected by the loss of the line for railroad transportation purposes, the department shall seek to negotiate the purchase of the abandoned portion of the line. In making this determination, the department shall consider, among other criteria ~~deemed~~ considered significant by the department, future economic development activities and opportunities in the area served by the abandoned railroad service. In addition, the department shall consult with the Department of Economic and Community Development, and the Department of Conservation and the State Planning Office in making the determination required in this section.

The department shall, in good faith, seek to lease the railroad rights-of-way until it finds that the preservation of the rights-of-way is not necessary for the welfare of the State or until the voters of the State approve or disapprove, at a statewide election, the issue of bonds to purchase the rights-of-way along the abandoned portion of the line.

Nothing in this paragraph may require the department to lease or purchase the railroad rights-of-way to an entire railroad line or any portion of the line for which railroad service has been abandoned if the railroad corporation owner does not intend to sell, lease or in any other way dispose of the rights-of-way by which railroad service could be easily restored along the abandoned service portion of the line.

**Sec. JJ-11. 30-A MRSA §2303**, as enacted by PL 1987, c. 737, Pt. A, §2, and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**§2303. Lead agency**

**1. Department of Conservation.** The ~~State Planning Office~~ Department of Conservation shall serve as the coordinator between regional councils and the State. ~~The State Planning Office,~~ shall administer state funds supporting regional council tasks and may provide technical assistance to regional councils as appropriate.

**2. Rulemaking.** The ~~Director of the State Planning Office~~ Department of Conservation may adopt rules to create standardized contracts and administrative and audit requirements for state funds received by regional councils.

**Sec. JJ-12. 30-A MRSA §4301, sub-§5-C** is enacted to read:

**5-C. Department.** "Department" means the Department of Conservation.

**Sec. JJ-13. 30-A MRSA §4301, sub-§13,** as amended by PL 1995, c. 395, Pt. D, §12, is repealed.

**Sec. JJ-14. 30-A MRSA §4301, sub-§14-A,** as enacted by PL 2001, c. 90, §1, is amended to read:

**14-A. Service center community.** "Service center community" means a municipality or group of municipalities identified by the ~~office department~~ according to a methodology established by rule that includes 4 basic criteria, including level of retail sales, jobs-to-workers ratio, the amount of federally assisted housing and the volume of service sector jobs. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

**Sec. JJ-15. 30-A MRSA §4312, sub-§4,** as amended by PL 2001, c. 406, §2, is further amended to read:

**4. Limitation on state rule-making authority.** The ~~office department~~ is authorized to adopt rules necessary to carry out the purposes of this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A. This section may not be construed to grant any separate regulatory authority to any state agency beyond that necessary to implement this subchapter.

**Sec. JJ-16. 30-A MRSA §4314, sub-§3,** as amended by PL 2007, c. 247, §1, is further amended to read:

**3. Rate of growth, zoning and impact fee ordinances.** After January 1, 2003, any portion of a municipality's or multimunicipal region's rate of growth, zoning or impact fee ordinance must be consistent with a comprehensive plan adopted in accordance with the procedures, goals and guidelines established in this subchapter. The portion of a rate of growth, zoning or impact fee ordinance not directly related to an inconsistency identified by a court or during a comprehen-

sive plan review by the ~~office department~~ in accordance with section 4347-A, subsection 3-A remains in effect. For purposes of this subsection, "zoning ordinance" does not include an ordinance that applies townwide that is a cluster development ordinance or a design ordinance prescribing the color, shape, height, landscaping, amount of open space or other comparable physical characteristics of development. The portion of a rate of growth, zoning or impact fee ordinance that is not consistent with a comprehensive plan is no longer in effect unless:

C. The ordinance or portion of the ordinance is exempted under subsection 2;

D. The municipality or multimunicipal region is under contract with the ~~office department~~ to prepare a comprehensive plan or implementation program, in which case the ordinance or portion of the ordinance remains valid for up to 4 years after receipt of the first installment of its first planning assistance grant or for up to 2 years after receipt of the first installment of its first implementation assistance grant, whichever is earlier;

E. The ordinance or portion of the ordinance conflicts with a newly adopted comprehensive plan or plan amendment adopted in accordance with the procedures, goals and guidelines established in this subchapter, in which case the ordinance or portion of the ordinance remains in effect for a period of up to 24 months immediately following adoption of the comprehensive plan or plan amendment;

F. The municipality or multimunicipal region applied for and was denied financial assistance for its first planning assistance or implementation assistance grant under this subchapter due to lack of state funds on or before January 1, 2003. If the ~~office department~~ subsequently offers the municipality or multimunicipal region its first planning assistance or implementation assistance grant, the municipality or multimunicipal region has up to one year to contract with the ~~office department~~ to prepare a comprehensive plan or implementation program, in which case the municipality's or multimunicipal region's ordinances will be subject to paragraph D; or

G. The ordinance or portion of an ordinance is an adult entertainment establishment ordinance, as defined in section 4352, subsection 2, that has been adopted by a municipality that has not adopted a comprehensive plan.

**Sec. JJ-17. 30-A MRSA §4326, sub-§3-A,** ~~¶A,~~ as amended by PL 2007, c. 247, §3, is further amended to read:

A. Except as otherwise provided in this paragraph, identify and designate geographic areas in the municipality or multimunicipal region as

growth areas and rural areas, as defined in this chapter.

(1) Within growth areas, each municipality or multimunicipal region shall:

- (a) Establish development standards;
- (b) Establish timely permitting procedures;
- (c) Ensure that needed public services are available; and
- (d) Prevent inappropriate development in natural hazard areas, including flood plains and areas of high erosion.

(2) Within rural areas, each municipality or multimunicipal region shall adopt land use policies and ordinances to discourage incompatible development. These policies and ordinances may include, without limitation, density limits, cluster or special zoning, acquisition of land or development rights, transfer of development rights pursuant to section 4328 and performance standards. The municipality or multimunicipal region should also identify which rural areas qualify as critical rural areas as defined in this chapter. Critical rural areas must receive priority consideration for proactive strategies designed to enhance rural industries, manage wildlife and fisheries habitat and preserve sensitive natural areas.

(3) A municipality or multimunicipal region may also designate as a transitional area any portion of land area that does not meet the definition of either a growth area or a rural area. Such an area may be appropriate for medium-density development that does not require expansion of municipal facilities and does not include significant rural resources.

(4) A municipality or multimunicipal region is not required to identify growth areas within the municipality or multimunicipal region for residential, commercial or industrial growth if it demonstrates, in accordance with rules adopted by the office department pursuant to this article, that:

- (a) It is not possible to accommodate future residential, commercial or industrial growth within the municipality or multimunicipal region because of severe physical limitations, including, without limitation, the lack of adequate water supply and sewage disposal services, very shallow soils or limitations imposed by protected natural resources;

(b) The municipality or multimunicipal region has experienced minimal or no residential, commercial or industrial development over the past decade and this condition is expected to continue over the 10-year planning period;

(c) The municipality or multimunicipal region has identified as its growth areas one or more growth areas identified in a comprehensive plan adopted or to be adopted by one or more other municipalities or multimunicipal regions in accordance with an interlocal agreement adopted in accordance with chapter 115 with one or more municipalities or multimunicipal regions; or

(d) The municipality or multimunicipal region has no village or densely developed area.

(6) A municipality or multimunicipal region exercising the discretion afforded by subparagraph 4 shall review the basis for its demonstration during the periodic revisions undertaken pursuant to section 4347-A;

**Sec. JJ-18. 30-A MRSA §4331**, as amended by PL 2001, c. 578, §17, is further amended to read:

**§4331. Evaluation process**

The office department shall conduct an ongoing evaluation process to determine the effectiveness of state, regional and local efforts under this chapter to achieve the purposes and goals of this chapter. Working through the Land and Water Resources Council, the office department shall seek the assistance of other state agencies. If requested, all state agencies shall render assistance to the office department in this effort.

**1. Criteria.** In conducting the evaluation, the office department shall develop criteria based on the goals of this chapter. The criteria must be objective, verifiable and, to the extent practicable, quantifiable.

**2. Baseline conditions.** The office department shall establish a baseline of land use conditions at a level of detail sufficient to permit general comparison of state and regional trends in future land use development patterns.

**3. Public input.** The office department shall incorporate opportunities for public input and comment into the evaluation process.

**4. Level of analysis.** The office department shall evaluate the program generally at a regional and statewide level. To illustrate the impact of the program, the office department shall compare land use development trends and patterns in a sample of towns that have participated in the program with a matched

sample of towns that have not participated. The evaluation performed by the office department must include an analysis of the State's financial commitment to growth management.

**5. Periodic reports.** Beginning on January 1, ~~1995~~ 2015, the office department shall report in writing on the results of its evaluation process every 4 years and more frequently if necessary. The office department shall submit its report to the joint standing committee of the Legislature having jurisdiction over natural resources matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

**Sec. JJ-19. 30-A MRSA §4345**, as amended by PL 2003, c. 641, §9, is further amended to read:

**§4345. Purpose; department to administer program**

Under the provisions of this article, a municipality or multimunicipal region may request financial or technical assistance from the office department for the purpose of planning and implementing a growth management program. A municipality or multimunicipal region that requests and receives a financial assistance grant shall develop and implement its growth management program in cooperation with the office department and in a manner consistent with the procedures, goals and guidelines established in this subchapter.

To accomplish the purposes of this article, the office department shall develop and administer a technical and financial assistance program for municipalities or multimunicipal regions. The program must include direct financial assistance for planning and implementation of growth management programs, standards governing the review of growth management programs by the office department, technical assistance to municipalities or multimunicipal regions and a voluntary certification program for growth management programs.

**Sec. JJ-20. 30-A MRSA §4346**, as amended by PL 2003, c. 641, §§10 to 12 and c. 689, Pt. B, §6, is further amended to read:

**§4346. Technical and financial assistance program**

The technical and financial assistance program for municipalities, regional councils and multimunicipal regions is established to encourage and facilitate the adoption and implementation of local, regional and statewide growth management programs.

The office department may enter into financial assistance grants only to the extent that funds are available. In making grants, the office department shall consider the need for planning in a municipality or multimunicipal region, the proximity of the municipality or multimunicipal region to other areas that are conducting or have completed the planning process

and the economic and geographic role of the municipality or multimunicipal region within a regional context. The office department may consider other criteria in making grants, as long as the criteria support the goal of encouraging and facilitating the adoption and implementation of local and multimunicipal growth management programs consistent with the procedures, goals and guidelines established in this subchapter. In order to maximize the availability of the technical and financial assistance program to all municipalities, multimunicipal regions and regional councils, financial assistance programs administered competitively under this article are exempt from rules adopted by the Department of Administrative and Financial Services pursuant to Title 5, section 1825-C for use in the purchase of services and the awarding of grants and contracts. The office department shall publish a program statement describing its grant program and advertising its availability to eligible applicants.

**2-A. Financial assistance grants.** A contract for a financial assistance grant must:

- A. Provide for the payment of a specific amount for the purposes of planning and preparing a comprehensive plan;
- B. Provide for the payment of a specific amount for the purposes of implementing that plan; and
- C. Include specific timetables governing the preparation and submission of products by the municipality or multimunicipal region.

The office department may not require a municipality or multimunicipal region to provide matching funds in excess of 25% of the value of that municipality's or multimunicipal region's financial assistance contract for its first planning assistance grant and implementation assistance grant. The office department may require a higher match for other grants, including, but not limited to, grants for the purpose of updating comprehensive plans. This match limitation does not apply to distribution of federal funds that the office department may administer.

**2-B. Use of funds.** A municipality or multimunicipal region may expend financial assistance grants for:

- A. The conduct of surveys, inventories and other data-gathering activities;
- B. The hiring of planning and other technical staff;
- C. The retention of planning consultants;
- D. Contracts with regional councils for planning and related services;
- E. Assistance in the development of ordinances;
- F. Retention of technical and legal expertise;

G. The updating of growth management programs or components of a program;

G-1. Evaluation of growth management programs; and

H. Any other purpose agreed to by the ~~office department~~ and the municipality or multimunicipal region that is directly related to the preparation of a comprehensive plan or the implementation of a comprehensive plan adopted in accordance with the procedures, goals and guidelines established in this subchapter.

**2-C. Program evaluation.** Any recipient of a financial assistance grant shall cooperate with the ~~office department~~ in performing program evaluations required under section 4331.

**2-D. Encumbered balances at year-end.** Notwithstanding Title 5, section 1589, at the end of each fiscal year, all encumbered balances accounts for financial assistance and regional planning grants may be carried forward for 2 years beyond the year in which those balances are encumbered.

**3. Technical assistance.** Using its own staff, the staff of other state agencies, contractors and the resources of the regional councils, the ~~office department~~ shall provide technical assistance to municipalities or multimunicipal regions in the development, administration and enforcement of growth management programs. The technical assistance component of the program must include a set of model land use ordinances or other implementation strategies developed by the ~~office department~~ that are consistent with this subchapter.

**4. Regional council assistance.** As part of the technical and financial assistance program, the ~~office department~~ may develop and administer a program to develop regional education and training programs, regional policies to address state goals and regional assessments. Regional assessments may include, but are not limited to, public infrastructure, inventories of agricultural and commercial forest lands, housing needs, recreation and open space needs, and projections of regional growth and economic development. The program may include guidelines to ensure methodological consistency among the State's regional councils. To implement this program, the ~~office department~~ may contract with regional councils to assist the ~~office department~~ in reviewing growth management programs, to develop necessary planning information at a regional level or to provide support for local planning efforts.

**5. Coordination.** State agencies with regulatory or other authority affecting the goals established in this subchapter shall conduct their respective activities in a manner consistent with the goals established under this subchapter, including, but not limited to, coordinating with municipalities, regional councils and other state

agencies in meeting the state goals; providing available information to regions and municipalities as described in section 4326, subsection 1; cooperating with efforts to integrate and provide access to geographic information system data; making state investments and awarding grant money as described in section 4349-A; and conducting reviews of growth management programs as provided in section 4347-A, subsection 3, paragraph A. Without limiting the application of this section to other state agencies, the following agencies shall comply with this subchapter. The Land and Water Resources Council shall periodically, but in no event less than biannually, review the effectiveness of agency coordination efforts, including, but not limited to, those in section 4349-A:

~~A. Department of Conservation;~~

B. Department of Economic and Community Development;

C. Department of Environmental Protection;

D. Department of Agriculture, Food and Rural Resources;

E. Department of Inland Fisheries and Wildlife;

F. Department of Marine Resources;

G. Department of Transportation;

G-1. Department of Health and Human Services;

~~G-2. Executive Department, State Planning Office;~~

H. Finance Authority of Maine; and

I. Maine State Housing Authority.

**Sec. JJ-21. 30-A MRSA §4347-A,** as amended by PL 2003, c. 641, §§13 to 15 and PL 2007, c. 247, §§4 and 5, is further amended to read:

**§4347-A. Review of programs by department**

**1. Comprehensive plans.** A municipality or multimunicipal region that chooses to prepare a growth management program and receives a planning grant under this article shall submit its comprehensive plan to the ~~office department~~ for review. A municipality or multimunicipal region that chooses to prepare a growth management program without receiving a planning grant under this article may submit its comprehensive plan to the ~~office department~~ for review. The ~~office department~~ shall review plans for consistency with the procedures, goals and guidelines established in this subchapter. A contract for a planning assistance grant must include specific timetables governing the review of the comprehensive plan by the ~~office department~~. A comprehensive plan submitted for review more than 12 months following a contract end date may be required to contain data, projections and other time-sensitive portions of the plan or pro-

gram that are in compliance with the ~~office's~~ department's most current review standards.

**2. Growth management programs.** A municipality or multimunicipal region may at any time request a certificate of consistency for its growth management program.

A. Upon a request for review under this section, the ~~office~~ department shall review the program and determine whether the program is consistent with the procedures, goals and guidelines established in this subchapter.

B. Certification by the ~~office~~ former State Planning Office or the department of a municipality's or multimunicipal region's growth management program under this article is valid for 10 years. To maintain certification, a municipality or multimunicipal region shall periodically review its growth management program and submit to the ~~office~~ department in a timely manner any revisions necessary to account for changes, including changes caused by growth and development. Certification does not lapse in any year in which the Legislature does not appropriate funds to the ~~office~~ department for the purposes of reviewing programs for recertification.

C. Upon a request for review under this section, the ~~office~~ department may review rate of growth, impact fee and zoning ordinances to determine whether the ordinances are consistent with a comprehensive plan that has been found consistent under this section without requiring submission of all elements of a growth management program. An affirmative finding of consistency by the ~~office~~ department is required for a municipality or multimunicipal region to assert jurisdiction as provided in section 4349-A.

**3. Review of growth management program.** In reviewing a growth management program, the ~~office~~ department shall:

A. Solicit written comments on any proposed growth management program from regional councils, state agencies, all municipalities contiguous to the municipality or multimunicipal region submitting a growth management program and any interested residents of the municipality or multimunicipal region or of contiguous municipalities. The comment period extends for 45 days after the ~~office~~ department receives the growth management program.

- (1) Each state agency reviewing the proposal shall designate a person or persons responsible for coordinating the agency's review of the growth management program.
- (2) Any regional council commenting on a growth management program shall determine

whether the program is compatible with the programs of other municipalities that may be affected by the program and with regional policies or needs identified by the regional council;

B. Prepare all written comments from all sources in a form to be forwarded to the municipality or multimunicipal region;

C. Within 90 days after receiving the growth management program, send all written comments on the growth management program to the municipality or multimunicipal region and any applicable regional council. If warranted, the ~~office~~ department shall issue findings specifically describing how the submitted growth management program is not consistent with the procedures, goals and guidelines established in this subchapter and the recommended measures for remedying the deficiencies.

(1) In its findings, the ~~office~~ department shall clearly indicate its position on any point on which there are significant conflicts among the written comments submitted to the ~~office~~ department.

(2) If the ~~office~~ department finds that the growth management program was adopted in accordance with the procedures, goals and guidelines established in this subchapter, the ~~office~~ department shall issue a certificate of consistency for the growth management program.

(3) Notwithstanding paragraph D, if a municipality or multimunicipal region requests a certificate of consistency for its growth management program, any unmodified component of that program that has previously been reviewed by the former State Planning Office or the ~~office~~ department and has received a finding of consistency will retain that finding during program certification review by the ~~office~~ department as long as the finding of consistency is current as defined in rules adopted by the ~~office~~ department;

D. Provide ample opportunity for the municipality or multimunicipal region submitting a growth management program to respond to and correct any identified deficiencies in the program. A finding of inconsistency for a growth management program may be addressed within 24 months of the date of the finding without addressing any new review standards that are created during that time interval. After 24 months, the program must be resubmitted in its entirety for state review under the ~~office's~~ department's most current review standards; and

E. Provide an expedited review and certification procedure for those submissions that represent minor amendments to certified growth management programs.

The office's department's decision on consistency of a growth management program constitutes final agency action.

**3-A. Review of comprehensive plan.** In reviewing a comprehensive plan, the office department shall:

A. Solicit written comments on any proposed comprehensive plan from regional councils, state agencies, all municipalities contiguous to the municipality or multimunicipal region submitting a comprehensive plan and any interested residents of the municipality or multimunicipal region or of contiguous municipalities. The comment period extends for 25 business days after the office department receives the comprehensive plan. Each state agency reviewing the proposal shall designate a person or persons responsible for coordinating the agency's review of the comprehensive plan;

B. Prepare all written comments from all sources in a form to be forwarded to the municipality or multimunicipal region;

C. Within 35 business days after receiving the comprehensive plan, notify the municipality or multimunicipal region if the plan is complete for purposes of review. If the office department notifies the municipality or multimunicipal region that the plan is not complete for purposes of review, the office department shall indicate in its notice necessary additional data or information;

D. Within 10 business days of issuing notification that a comprehensive plan is complete for purposes of review, issue findings specifically describing whether the submitted plan is consistent with the procedures, goals and guidelines established in this subchapter and identify which inconsistencies in the plan, if any, may directly affect rate of growth, zoning or impact fee ordinances.

(1) In its findings, the office department shall clearly indicate its position on any point on which there are significant conflicts among the written comments submitted to the office department.

(2) If the office department finds that the comprehensive plan was developed in accordance with the procedures, goals and guidelines established in this subchapter, the office department shall issue a finding of consistency for the comprehensive plan.

(3) A finding of inconsistency must identify the goals under this subchapter not ade-

quately addressed, specific sections of the rules relating to comprehensive plan review adopted by the office department not adequately addressed and recommendations for resolving the inconsistency;

E. Send all written findings and comments on the comprehensive plan to the municipality or multimunicipal region and any applicable regional council; and

F. Provide ample opportunity for the municipality or multimunicipal region submitting a comprehensive plan to respond to and correct any identified deficiencies in the plan. A finding of inconsistency for a comprehensive plan may be addressed within 24 months of the date of the finding without addressing any new review standards that are created during that time interval. After 24 months, the plan must be resubmitted in its entirety for state review under the office's department's most current review standards.

If the office department finds that a plan is not consistent with the procedures, goals and guidelines established in this subchapter, the municipality or multimunicipal district that submitted the plan may appeal that finding to the office department within 20 business days of receipt of the finding in accordance with rules adopted by the office department, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

The office's department's decision on consistency of a comprehensive plan constitutes final agency action.

A finding by the office department pursuant to paragraph D that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid for 12 years from the date of its issuance. A finding by the office former State Planning Office issued pursuant to this subchapter prior to December 31, 2000 that a comprehensive plan is consistent with the procedures, goals and guidelines established in this subchapter is valid until December 31, 2012. For purposes of section 4314, subsection 3 and section 4352, subsection 2, expiration of a finding of consistency pursuant to this subsection does not itself make a comprehensive plan inconsistent with the procedures, goals and guidelines established in this subchapter.

**4. Updates and amendments.** A municipality or multimunicipal region may submit proposed amendments to a comprehensive plan or growth management program to the office department for review in the same manner as provided for the review of new plans and programs. Subsequent to voluntary certification under this subsection, the municipality or multimunicipal region shall file a copy of an amendment to a growth management program with the office department within 30 days after adopting the amendment and

at least 60 days prior to applying for any state grant program that offers a preference for consistency or certification.

**5. Regional councils.** Subject to the availability of funding and pursuant to the conditions of a contract, each regional council shall review and submit written comments on the comprehensive plan or growth management program of any municipality or multimunicipal region within its planning region. The comments must be submitted to the ~~office~~ department and contain an analysis of:

A. Whether the comprehensive plan or growth management program is compatible with identified regional policies and needs; and

B. Whether the comprehensive plan or growth management program is compatible with plans or programs of municipalities or multimunicipal regions that may be affected by the proposal.

**Sec. JJ-22. 30-A MRSA §4349-A, sub-§1, ¶C,** as amended by PL 2001, c. 613, §2, is further amended to read:

C. Areas other than those described in paragraph A or B for the following projects:

~~(1) A project certified to the Land and Water Resources Council established in Title 5, section 3331 by the head of the agency funding the project as necessary to remedy a threat to public health or safety or to comply with environmental clean-up laws;~~

(2) A project related to a commercial or industrial activity that, due to its operational or physical characteristics, typically is located away from other development, such as an activity that relies on a particular natural resource for its operation;

(3) An airport, port or railroad or industry that must be proximate to an airport, a port or a railroad line or terminal;

(4) A pollution control facility;

(5) A project that maintains, expands or promotes a tourist or cultural facility that is required to be proximate to a specific historic, natural or cultural resource or a building or improvement that is related to and required to be proximate to land acquired for a park, conservation, open space or public access or to an agricultural, conservation or historic easement;

(6) A project located in a municipality that has none of the geographic areas described in paragraph A or B and that prior to January 1, 2000 formally requested but had not received from the ~~office~~ former State Planning Office funds to assist with the preparation of a com-

prehensive plan or that received funds from the department to assist with the preparation of a comprehensive plan within the previous 2 years. This exception expires for a municipality 2 years after such funds are received; or

(7) A housing project serving the following: individuals with mental illness, mental retardation, developmental disabilities, physical disabilities, brain injuries, substance abuse problems or a human immunodeficiency virus; homeless individuals; victims of domestic violence; foster children; or children or adults in the custody of the State. A nursing home is not considered a housing project under this paragraph; ~~or.~~

~~(8) A project certified to the Land and Water Resources Council established in Title 5, section 3331 by the head of the agency funding the project as having no feasible location within an area described in paragraph A or B if, by majority vote of all members, the Land and Water Resources Council finds that extraordinary circumstances or the unique needs of the agency require state funds for the project. The members of the Land and Water Resources Council may not delegate their authority under this subparagraph to the staffs of their member agencies.~~

**Sec. JJ-23. 30-A MRSA §4349-A, sub-§3-A, ¶¶A and D,** as enacted by PL 2003, c. 604, §2 and affected by §3, are amended to read:

A. When awarding a grant or making a discretionary investment under any of the programs under paragraph B, subparagraphs (1) and (2) or when undertaking its own capital investment programs other than for projects identified in section 4301, subsection 5-B, a state agency shall respect the primary purpose of its grant or investment program and, to the extent feasible, give preference:

(1) First, to a municipality that has received a certificate of consistency for its growth management program under section 4347-A;

(2) Second, to a municipality that has adopted a comprehensive plan that the ~~office~~ former State Planning Office or the department has determined is consistent with the procedures, goals and guidelines of this subchapter and has adopted zoning ordinances that the ~~office~~ former State Planning Office or the department has determined are consistent with the comprehensive plan; and

(3) Third, to a municipality that has adopted a comprehensive plan that the ~~office~~ former State Planning Office or the department has

determined is consistent with the procedures, goals and guidelines of this subchapter.

If a municipality has submitted a comprehensive plan, zoning ordinance or growth management program to the ~~office former State Planning Office or the department~~ for review, the time for ~~the office to respond~~ response as established in section 4347-A has expired and ~~the office has not provided its~~ comments or findings have not been provided to the municipality, a state agency when awarding a grant or making a discretionary investment under this subsection may not give preference over the municipality to another municipality.

D. The ~~office~~ department shall work with state agencies to prepare mechanisms for establishing preferences in specific investment and grant programs as described in paragraph B.

**Sec. JJ-24. 30-A MRSA §4353, sub-§2, ¶B,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

B. Approve the issuance of a special exception permit or conditional use permit in strict compliance with the ordinance except that, if the municipality has authorized the planning board, agency or ~~office~~ department to issue these permits, an appeal from the granting or denial of such a permit may be taken directly to Superior Court if required by local ordinance; and

**Sec. JJ-25. 30-A MRSA §4353, sub-§3,** as enacted by PL 1989, c. 104, Pt. A, §45 and Pt. C, §10, is amended to read:

**3. Parties.** The board shall reasonably notify the petitioner, the planning board, agency or ~~office~~ department and the municipal officers of any hearing. These persons ~~shall~~ must be made parties to the action. All interested persons ~~shall~~ must be given a reasonable opportunity to have their views expressed at any hearing.

**Sec. JJ-26. 30-A MRSA §5226, sub-§2,** as enacted by PL 2001, c. 669, §1, is amended to read:

**2. Review by commissioner.** Before final designation of a tax increment financing district, the commissioner shall review the proposal to ensure that the proposal complies with statutory requirements. In the case of a downtown tax increment financing district, the ~~State Planning Office~~ Department of Conservation and the Department of Transportation shall review the proposal and provide advice to assist the commissioner in making a decision under this subsection.

**Sec. JJ-27. 30-A MRSA §5953-D, sub-§3, ¶D,** as amended by PL 2003, c. 288, §2, is further amended to read:

D. In the case of a grant or loan, the Department of Economic and Community Development affirms that the applicant has met the conditions of this paragraph.

(1) A municipality is eligible to receive a grant or a loan, or a combination of both, if that municipality has adopted a growth management program certified under section 4347-A that includes a capital improvement program composed of the following elements:

(a) An assessment of all public facilities and services, such as, but not limited to, roads and other transportation facilities, sewers, schools, parks and open space, fire and police;

(b) An annually reviewed 5-year plan for the replacement and expansion of existing public facilities or the construction of such new facilities as are required to meet expected growth and economic development. The plan must include projections of when and where those facilities will be required; and

(c) An assessment of the anticipated costs for replacement, expansion or construction of public facilities, an identification of revenue sources available to meet these costs and recommendations for meeting costs required to implement the plan.

(2) A municipality is eligible to receive a loan if that municipality:

(a) Has adopted a comprehensive plan that is determined by the Executive Department, ~~former~~ State Planning Office or the Department of Conservation to be consistent with section 4326, subsections 1 to 4.

(3) A municipality is eligible to receive a grant or a loan if that municipality is a service center community.

Subject to the limitations of this subsection, 2 or more municipalities that each meet the requirements of subparagraph (1), (2) or (3) may jointly apply for assistance under this section; and

**Sec. JJ-28. 30-A MRSA §5953-D, sub-§5,** as amended by PL 1999, c. 776, §13, is further amended to read:

**5. Coordination.** The bank shall coordinate the loans and grants made under this section with all other community assistance loans and grants administered by the Department of Economic and Community Development and with other state assistance programs designed to accomplish similar objectives, including

those administered by the Department of Education, the Department of Transportation, ~~the State Planning Office within the Executive Department~~, the Finance Authority of Maine, the Maine State Housing Authority, the Maine Historic Preservation Commission, the Department of Administrative and Financial Services, the Department of Conservation and the Department of Environmental Protection.

**Sec. JJ-29. 38 MRSA §420-D, sub-§6**, as enacted by PL 1995, c. 704, Pt. B, §2 and affected by PL 1997, c. 603, §§8 and 9, is amended to read:

**6. Urbanizing areas.** The department shall work with the ~~State Planning Office~~ Department of Conservation to identify urban bodies of water most at risk and incorporate model ordinances protective of these bodies of water into assistance provided to local governments.

**Sec. JJ-30. 38 MRSA §420-D, sub-§11, ¶A**, as amended by PL 2011, c. 206, §10, is further amended to read:

A. The department may allow an applicant with a project in the direct watershed of a lake to address certain on-site phosphorus reduction requirements through implementation of a compensation project or payment of a compensation fee as provided in this paragraph. The commissioner shall determine the appropriate compensation fee for each project. The compensation fee must be paid either into a compensation fund or to an organization authorized by the department and must be a condition of the permit.

(1) The department may establish a storm water compensation fund for the purpose of receiving compensation fees, grants and other related income. The fund must be a nonlapsing fund dedicated to payment of the costs and related expenses of compensation projects. Income received under this subsection must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by statute. Interest on these investments must be credited to the fund. The department may make payments from the fund consistent with the purpose of the fund.

(2) The department may enter into a written agreement with a public, quasi-public or private, nonprofit organization for purposes of receiving compensation fees and implementing compensation projects. If the authorized agency is a state agency other than the department, it shall establish a fund meeting the requirements specified in subparagraph (1). The authorized organization shall maintain records of expenditures and provide an annual summary report to the department. If the organization does not perform in accordance

with this section or with the requirements of the written agreement, the department may revoke the organization's authority to conduct activities in accordance with this paragraph. If an organization's authorization is revoked, any remaining funds must be provided to the department.

(3) The commissioner may set a fee rate of no more than \$25,000 per pound of available phosphorus.

(4) Except in an urbanized part of a designated growth area, best management practices must be incorporated on site that, by design, will reduce phosphorus export by at least 50%, and a phosphorus compensation project must be carried out or a compensation fee must be paid to address the remaining phosphorus reduction required to meet the parcel's phosphorus allocation. In an urbanized part of a designated growth area, an applicant may pay a phosphorus compensation fee in lieu of part or all of the on-site phosphorus reduction requirement. The commissioner shall identify urbanized parts of designated growth areas in the direct watersheds of lakes most at risk, in consultation with the ~~State Planning Office~~ Department of Conservation.

(5) Projects carried out or funded through compensation fees as provided in this paragraph must be located in the same watershed as the project with respect to which the compensation fee is paid.

**Sec. JJ-31. 38 MRSA §480-Z, sub-§3**, as amended by PL 2007, c. 527, §1, is further amended to read:

**3. Compensation fee program.** The department may develop a wetlands compensation fee program for the areas listed in subsection 7, paragraphs A and B in consultation with the ~~State Planning Office~~ Department of Conservation, the United States Army Corps of Engineers and state and federal resource agencies, including the United States Fish and Wildlife Service and the United States Environmental Protection Agency. The department may develop a compensation fee program for the areas listed in subsection 7, paragraphs C, D and E in consultation with the Department of Inland Fisheries and Wildlife.

A. The program may include the following:

(1) Identification of wetland management priorities on a watershed or biophysical region basis;

(1-A) Identification of management priorities for the areas listed in subsection 7, paragraphs C, D and E;

- (2) Identification of the types of losses eligible for compensation under this subsection;
- (3) Standards for compensation fee projects;
- (4) Calculation of compensation fees based on the functions and values of the affected areas and the cost of compensation, taking into account the potential higher cost of compensation when a project is implemented at a later date; and
- (5) Methods to evaluate the long-term effectiveness of compensation fee projects implemented under this subsection in meeting the management priorities identified pursuant to subparagraphs (1) and (1-A).

B. Any compensation fee may be paid into a compensation fund established by the department as provided in subparagraph (1) or to an organization authorized by the department as provided in subparagraph (2). A compensation project funded in whole or in part from compensation fees must be approved by the department.

(1) The department may establish compensation funds for the purpose of receiving compensation fees, grants and other related income. A compensation fund must be a fund dedicated to payment of costs and related expenses of restoration, enhancement, preservation and creation projects. The department may make payments from the fund consistent with the purpose of the fund. Income received under this subsection must be deposited with the State Treasurer to the credit of the compensation fund and may be invested as provided by law. Interest on these investments must be credited to the compensation fund.

(2) The department may enter into an enforceable, written agreement with a public, quasi-public or municipal organization or a private, nonprofit organization for the protection of natural areas. Such an organization must demonstrate the ability to receive compensation fees, administer a compensation fund and ensure that compensation projects are implemented consistent with local, regional or state management priorities. If compensation fees are provided to an authorized organization, the organization shall maintain records of expenditures and provide an annual summary report as requested by the department. If the authorized agency is a state agency other than the department, the agency shall establish a fund meeting the requirements specified in subparagraph (1). If the organization does not perform in accordance with this subsection or with the re-

quirements of the written agreement, the department may revoke the organization's authority to conduct activities in accordance with this subsection.

Rules adopted pursuant to this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

**Sec. JJ-32. 38 MRSA §488, sub-§14, ¶A**, as amended by PL 2001, c. 406, §17, is further amended to read:

A. A development is exempt from review under flood plain, noise and infrastructure standards under section 484 if that development is located entirely within:

- (1) A municipality that has adopted a local growth management program that ~~the State Planning Office~~ has been certified under Title 30-A, section 4347-A; and
- (2) An area designated in that municipality's local growth management program as a growth area.

An applicant claiming an exemption under this paragraph shall include with the application a statement from the ~~State Planning Office~~ Department of Conservation affirming that the location of the proposed development meets the provisions of subparagraphs (1) and (2).

An applicant claiming an exemption under this paragraph shall publish a notice of that application in a newspaper of general circulation in the region that includes the municipality in which the development is proposed to occur. That notice must include a statement indicating the standard or standards for which the applicant is claiming an exemption.

**Sec. JJ-33. 38 MRSA §489-D, sub-§2, ¶B**, as enacted by PL 1995, c. 704, Pt. A, §22 and affected by Pt. C, §2, is amended to read:

B. A municipality may also obtain technical assistance in the form of a peer review from a private consultant or regional council and may recover costs from the developer for a project of any size. The ~~State Planning Office~~ Department of Conservation has the authority to establish rules as necessary for this purpose.

**Sec. JJ-34. 38 MRSA §909**, as enacted by PL 1997, c. 789, §4 and affected by §5, is amended to read:

**§909. Technical assistance**

To the extent existing resources are available, when one or more municipalities ~~seeks~~ seek ownership of a dam, the ~~State Planning Office~~ Department of Conservation may provide grants and technical assis-

tance to the participating municipality or municipalities or to regional planning organizations.

**Sec. JJ-35. 38 MRSA §956, sub-§1**, as enacted by PL 1979, c. 663, §233, is amended to read:

**1. Guide for boundaries.** The comprehensive plan submitted to the 106th Legislature by the Saco River Environmental Advisory Committee ~~shall must~~ be used as a guide by the planning boards of the municipalities within the corridor in making recommendations for district boundaries and by the commission in establishing final boundaries. The comprehensive plan ~~shall may~~ not be regarded as a final and complete design for the future of the land and water areas within the corridor, but as the basis of a continuing planning process to be carried out by the commission in conjunction with local officials, regional planning districts, councils of government and the ~~State Planning Office~~ Department of Conservation.

**Sec. JJ-36. 38 MRSA §956, sub-§2, ¶B**, as enacted by PL 1979, c. 663, §233, is amended to read:

B. The proposed amendment or revision has been submitted to the ~~State Planning Office, pursuant to Title 5, section 3305, subsection 1, paragraph G~~ Department of Conservation, which shall forward its comments and recommendations, if any, to the commission within 30 days; and

**Sec. JJ-37. 38 MRSA §961**, as amended by PL 1989, c. 890, Pt. A, §40 and Pt. B, §204, is further amended to read:

**§961. Relation to municipal, state and federal regulations**

Nothing in this chapter prevents municipal, state or federal authorities from adopting and administering more stringent requirements regarding performance standards or permitted uses within use districts established by the commission or within districts overlapping the districts established pursuant to this chapter. Where there is a conflict between a provision adopted under this chapter and any other municipal, state or federal requirement applicable to the same land or water areas within the corridor, the more restrictive provision takes precedence. All performance standards, rules and regulations proposed for hearing by the commission must be submitted to the Commissioner of Environmental Protection, the ~~State Planning Office~~ Department of Conservation, the Greater Portland Council of Governments and the Southern Maine Regional Planning Commission at least 7 days prior to the hearing for review and comment. The commission ~~shall may~~ not ~~promulgate adopt~~ any rule establishing air or water quality standards within the corridor in conflict with the rules of the Department of Environmental Protection without the prior approval of the Board of Environmental Protection.

**Sec. JJ-38. 38 MRSA §1163, sub-§2**, as enacted by PL 1995, c. 636, §1, is amended to read:

**2. Appeal.** For an intermunicipal sewer extension, when written assurance is denied by municipal officers pursuant to subsection 1, an aggrieved party may appeal, within 15 days of the decision, to the ~~State Planning Office, referred to in this subsection as the "office,"~~ Department of Conservation for a review of the municipal officers' decision. Notwithstanding Title 5, chapter 375, subchapter ~~IV~~ 4, the following procedures apply to the review by the ~~office~~ Department of Conservation.

A. The ~~office~~ Department of Conservation may request any additional information from the sanitary district, the municipality or the department. All information requested by the ~~office~~ Department of Conservation must be submitted within 30 days of the request, unless an extension is granted by the ~~office~~ Department of Conservation.

B. Within a reasonable time, the ~~office~~ Department of Conservation shall hold a hearing. The ~~office~~ Department of Conservation shall give at least 7 days' written notice of the hearing to the sanitary district, the municipality and the party that requested the hearing. The hearing is informal and the ~~office~~ Department of Conservation may receive any information it considers necessary.

C. Within 15 days of the hearing and within 60 days of the request for review, the ~~office~~ Department of Conservation shall make a decision that must include findings of fact on whether the sewer extension proposal is inconsistent with adopted municipal plans and ordinances regulating land use. The decision of the ~~office~~ Department of Conservation constitutes final agency action.

D. Notwithstanding subsection 1, if the ~~office~~ Department of Conservation determines that the sewer extension proposal is not inconsistent with adopted municipal plans and ordinances regulating land use, the ~~office~~ Department of Conservation shall issue written assurance that the proposal is consistent with adopted municipal plans and ordinances regulating land use, and the sanitary district may construct the sewer extension.

**Sec. JJ-39. 38 MRSA §1252, sub-§7, ¶B**, as enacted by PL 1995, c. 636, §2, is amended to read:

B. For an intermunicipal sewer extension, when written assurance is denied by municipal officers pursuant to paragraph A, an aggrieved party may appeal, within 15 days of the decision, to the ~~State Planning Office, referred to in this paragraph as the "office,"~~ Department of Conservation for a review of the municipal officers' decision. Notwithstanding Title 5, chapter 375, subchapter ~~IV~~ 4, the

following procedures apply to the review by the ~~office~~ Department of Conservation.

(1) The ~~office~~ Department of Conservation may request any additional information from the sewer district, the municipality or the department. All information requested by the ~~office~~ Department of Conservation must be submitted within 30 days of the request, unless an extension is granted by the ~~office~~ Department of Conservation.

(2) Within a reasonable time, the ~~office~~ Department of Conservation shall hold a hearing. The ~~office~~ Department of Conservation shall give at least 7 days' written notice of the hearing to the sewer district, the municipality and the party that requested the hearing. The hearing is informal and the office may receive any information it considers necessary.

(3) Within 15 days of the hearing and within 60 days of the request for review, the ~~office~~ Department of Conservation shall make a decision that must include findings of fact on whether the sewer extension proposal is inconsistent with adopted municipal plans and ordinances regulating land use. The decision of the ~~office~~ Department of Conservation constitutes final agency action.

(4) Notwithstanding paragraph A, if the ~~office~~ Department of Conservation determines that the sewer extension proposal is not inconsistent with adopted municipal plans and ordinances regulating land use, the ~~office~~ Department of Conservation shall issue written assurance that the proposal is consistent with adopted municipal plans and ordinances regulating land use, and the sewer district may construct the sewer extension.

**Sec. JJ-40. Transition provisions; land use planning-related matters.** The following provisions apply to the reassignment of duties, responsibilities and activities of the Executive Department, State Planning Office regarding land use planning and related technical assistance to municipalities, including but not limited to those under the Maine Revised Statutes, Title 30-A, chapter 187, to the Department of Conservation.

1. Four authorized positions and incumbent personnel as of April 1, 2012 in the State Planning Office that are assigned to that office's land use planning program are transferred to the Department of Conservation. These employees retain their rights as unclassified employees as well as their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

2. The Commissioner of Conservation shall designate the Director of Land Use Planning within the

Department of Conservation. The Director of Land Use Planning shall coordinate technical assistance and provide guidance for state agencies and local and regional comprehensive plans. Other duties and responsibilities of the Director of Land Use Planning must be established by the Commissioner of Conservation.

3. The Commissioner of Conservation shall designate the Director of the Land for Maine's Future Program within the office of the commissioner in the Department of Conservation. The commissioner shall establish the duties of the Director of the Land for Maine's Future Program.

**Sec. JJ-41. Effective date.** This Part takes effect July 1, 2012.

## PART KK

**Sec. KK-1. 1 MRSA §25,** as amended by PL 1999, c. 556, §1, is further amended to read:

### §25. Topographic mapping

The Bureau of Geology ~~and~~ Natural Areas and Coastal Resources has charge of topographic mapping on behalf of the State. The Bureau of Geology ~~and~~ Natural Areas and Coastal Resources is authorized and directed to enter into such agreements with the Director of the United States Geological Survey as will ~~assure~~ ensure the progress of the work in an efficient and economical manner.

**Sec. KK-2. 2 MRSA §6, sub-§5,** as amended by PL 2005, c. 405, Pt. D, §4, is further amended to read:

**5. Range 86.** The salaries of the following state officials and employees are within salary range 86:

Director of Labor Standards;

State Archivist;

Director, Bureau of Geology ~~and~~ Natural Areas and Coastal Resources;

Executive Director, Maine Land Use Regulation Commission;

Chair, Maine Unemployment Insurance Commission;

Child Welfare Services Ombudsman; and

Director of the Maine Drug Enforcement Agency.

**Sec. KK-3. 5 MRSA §935, sub-§1, ¶D,** as amended by PL 1999, c. 556, §3, is further amended to read:

D. Director, Bureau of Geology ~~and~~ Natural Areas and Coastal Resources;

**Sec. KK-4. 12 MRSA §541-A,** as enacted by PL 1999, c. 556, §12, is amended to read:

**§541-A. Bureau of Geology, Natural Areas and Coastal Resources**

The Bureau of Geology ~~and~~ Natural Areas ~~and~~ Coastal Resources is established within the Department of Conservation and is administered by the commissioner. The bureau consists of the Maine Geological Survey, referred to in this chapter as the "survey," ~~and~~ the Natural Areas Program ~~and~~ the Maine Coastal Program. The executive director of the bureau is the director of the survey.

**Sec. KK-5. 12 MRSA §544-D** is enacted to read:

**§544-D. Maine Coastal Program**

**1. Establishment.** The Maine Coastal Program is established within the Department of Conservation and is administered by the commissioner.

**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Coastal area" has the same meaning as provided in Title 38, section 1802, subsection 1.

B. "Coastal management" has the same meaning as provided in Title 38, section 1802, subsection 2.

C. "Coastal resources" has the same meaning as provided in Title 38, section 1802, subsection 3.

D. "Commissioner" means the Commissioner of Conservation.

E. "State coastal zone management program" means the coastal management program originally approved by the National Oceanic and Atmospheric Administration in September 1978 and as subsequently changed in accordance with the federal Coastal Zone Management Act of 1972, 16 United States Code, Sections 1451 to 1466 (2012).

**3. Purpose.** The Maine Coastal Program is established to manage and administer and to coordinate implementation and ongoing development and improvement of the state coastal zone management program in accordance with and in furtherance of the requirements of the federal Coastal Zone Management Act of 1972, 16 United States Code, Sections 1451 to 1466 (2012) and the State's coastal management policies established in Title 38, section 1801.

**4. Authorities.** In order to and to the extent needed to carry out its responsibilities under subsection 3, the Maine Coastal Program is authorized to:

A. Receive and administer federal grants from the National Oceanic and Atmospheric Administration, as well as financial assistance from other public or private sources, for implementation of the state coastal zone management program;

B. At the request of the Governor or the Legislature, or on its own initiative, prepare or coordinate plans, studies, technical assistance and policies to identify immediate and long-range needs regarding coastal management, coastal resources and related human uses in the coastal area and to guide and carry forward the wise, coordinated and well-balanced development and conservation of coastal resources;

C. Implement aspects of the state coastal zone management program and be the lead state agency for purposes of federal consistency review under the federal Coastal Zone Management Act of 1972, 16 United States Code, Section 1456 (2012); and

D. Act as the coordinating agency among the several officers, authorities, boards, commissions, departments and political subdivisions of the State on matters relative to management of coastal resources and related human uses in the coastal area.

Nothing in this section may be construed as limiting the powers and duties of any officer, authority, board, commission, department or political subdivision of the State.

**Sec. KK-6. 12 MRSA §549**, as amended by PL 1999, c. 556, §14, is further amended to read:

**§549. Jurisdiction**

The Bureau of Geology ~~and~~ Natural Areas ~~and~~ Coastal Resources and the agencies having jurisdiction over state-owned lands have jurisdiction, as set forth in this subchapter, over all state-owned lands for the purpose of mineral development and mining on that land. The Bureau of Geology ~~and~~ Natural Areas ~~and~~ Coastal Resources and the agencies having jurisdiction over state-owned lands may make such rules as each ~~deems~~ considers proper with respect to the authority delegated pursuant to this subchapter.

**Sec. KK-7. 12 MRSA §549-A, sub-§2**, as amended by PL 1999, c. 556, §15, is further amended to read:

**2. Director of the survey.** "Director of the survey" means the Director of the Bureau of Geology ~~and~~ Natural Areas ~~and~~ Coastal Resources.

**Sec. KK-8. 12 MRSA §550-B, sub-§3, ¶A**, as amended by PL 2003, c. 175, §3, is further amended to read:

A. Within 30 days after completion of any well or dry hole, or the enlarging or deepening of an existing well, a well drilling company shall submit a report to the Bureau of Geology ~~and~~ Natural Areas ~~and~~ Coastal Resources on forms designed and provided by the Bureau of Geology ~~and~~ Natural Areas ~~and~~ Coastal Resources. The report must

contain information as may be required by the Bureau of Geology ~~and~~ Natural Areas and Coastal Resources, including, but not limited to, location, construction and well yield.

**Sec. KK-9. 12 MRSA §550-B, sub-§6**, as amended by PL 2009, c. 567, §6, is further amended to read:

**6. Information use.** Information collected by the Bureau of Geology ~~and~~ Natural Areas and Coastal Resources, Maine Geological Survey under this section is subject to Title 1, chapter 13, subchapter 1, unless the well drilling company to whom the information belongs or pertains requests that it be designated as confidential and the bureau has determined it contains proprietary information. For the purposes of this subsection, "proprietary information" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the information and would make available information not otherwise publicly available. The Bureau of Geology ~~and~~ Natural Areas and Coastal Resources, Maine Geological Survey shall make information collected under this chapter available to any federal, state or municipal entity or authorized agent of such entity.

**Sec. KK-10. 12 MRSA §1835, sub-§1, ¶A**, as amended by PL 1999, c. 556, §18, is further amended to read:

A. The first \$20,000 in the aggregate of any money accruing from the alienation of rights to mine upon nonreserved public land, or other income arising out of mining operations, that is actually received during any fiscal year, and every portion thereof accruing from these mining operations, must be paid into the Bureau of Geology ~~and~~ Natural Areas and Coastal Resources.

**Sec. KK-11. 12 MRSA §1849, sub-§1, ¶A**, as amended by PL 1999, c. 556, §20, is further amended to read:

A. The first \$20,000 in the aggregate of any money accruing from the alienation of rights to mine upon public reserved land, or other income arising out of mining operations, that is actually received during any fiscal year, and every portion thereof accruing from these mining operations, must be paid to the Bureau of Geology ~~and~~ Natural Areas and Coastal Resources.

**Sec. KK-12. 12 MRSA §1863-A, sub-§4, ¶A**, as enacted by PL 2009, c. 615, Pt. B, §3, is amended to read:

A. Fifty percent to fund research, monitoring and other efforts to avoid, minimize and compensate for potential adverse effects of renewable ocean energy projects, as defined in section 1862, subsection 1, paragraph F-1, on noncommercial fish-

eries, seabirds, marine mammals, shorebirds, migratory birds and other coastal and marine natural resources, including but not limited to development, enhancement and maintenance of map-based information resources developed to guide public and private decision making on siting issues and field research to provide baseline or other data to address siting issues presented by renewable ocean energy projects. The department shall consult with the Department of Inland Fisheries and Wildlife ~~and the Executive Department, State Planning Office~~ in allocating funds it receives pursuant to this paragraph; and

**Sec. KK-13. 12 MRSA §1868, sub-§1**, as enacted by PL 2009, c. 270, Pt. C, §1, is amended to read:

**1. Site identification process.** No later than December 15, 2009, following consultation with the Department of Environmental Protection, the Public Utilities Commission, the Department of Inland Fisheries and Wildlife, the Maine Land Use Regulation Commission, the Department of Marine Resources, the Maine Historic Preservation Commission and the University of Maine System and opportunity for public comment, the department, ~~in conjunction with the Executive Department, State Planning Office~~, shall identify and map up to 5 specific offshore wind energy test areas. An offshore wind energy test area identified under this subsection must be a geographic area on state-owned submerged lands suitable for offshore wind energy demonstration projects constructed and operated in accordance with Title 38, section 480-HH. In identifying each such area, the department must consider existing information regarding pertinent ecological, environmental, social and development-related factors, including but not limited to:

A. Potential adverse effects on a protected natural resource, as defined by Title 38, section 480-B, subsection 8, or a scenic resource of state or national significance, as defined by Title 35-A, section 3451, subsection 9;

B. Potential adverse effects on species listed as threatened or endangered under section 6975 or section 12803, subsection 3; avian species, including seabirds, passerines, raptors, shorebirds, water birds and waterfowl; bats; and marine mammals;

C. Potential adverse effects on commercial fishing, recreation, navigation, existing public access ways to intertidal and subtidal areas and other existing uses;

D. Proximity to deep water port facilities, rail transportation, transmission infrastructure facilities and existing ocean-based environmental monitoring devices;

E. Data regarding wind speed, ocean wave height and period, ocean currents and water depth;

F. Geology, including substrate type and other seafloor characteristics;

G. Public support in pertinent coastal communities; and

H. Historic sites and archaeological resources of state or national significance.

**Sec. KK-14. 12 MRSA §5013, sub-§5**, as amended by PL 1999, c. 556, §21, is further amended to read:

**5. Bureau of Geology, Natural Areas and Coastal Resources.** The Bureau of Geology and Natural Areas and Coastal Resources is under the direction and supervision of a director who is appointed by, and serves at the pleasure of, the commissioner.

**Sec. KK-15. 12 MRSA §6022, sub-§11**, as enacted by PL 1977, c. 661, §5, is amended to read:

**11. Interagency cooperation.** The commissioner shall consult with, offer advice to and cooperate with ~~the State Planning Office~~, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife and the Department of Conservation in carrying out ~~his~~ the commissioner's duties, and these agencies shall do the same in carrying out their duties. Cooperation ~~shall include~~ includes the exchange of information and the filing of copies of any application, petition, request, report or similar document ~~which that~~ may bear upon the responsibilities of any of these departments. Details of those exchanges ~~shall must~~ be worked out by the heads of the departments.

**Sec. KK-16. 12 MRSA §13001, sub-§12**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

**12. Freshwater marshes and bogs.** "Freshwater marshes and bogs" means naturally occurring open areas with saturated soils or peat, often associated with standing water and dominated by low herbaceous vegetation, grasses, weeds and shrubs and including wetlands, as shown on the Freshwater Wetlands Map Series, Bureau of Geology and Natural Areas and Coastal Resources, Maine Geological Survey, or zoned as a Wetland Protection Subdistrict, P-WL, by the Maine Land Use Regulation Commission.

**Sec. KK-17. 22 MRSA §676, sub-§5**, as amended by PL 1999, c. 556, §26, is further amended to read:

**5. Geology.** The Bureau of Geology and Natural Areas and Coastal Resources, Maine Geological Survey within the Department of Conservation shall provide technical assistance for waste management.

**Sec. KK-18. 22 MRSA §679-B, sub-§8**, as amended by PL 1999, c. 556, §27, is further amended to read:

**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 Bureau of Geology and Natural Areas and Coastal Resources, Maine Geological Survey within the Department of Conservation and the Maine Land Use Regulation Commission.

**Sec. KK-19. 32 MRSA §4700-G, sub-§2**, as amended by PL 2009, c. 153, §8, is further amended to read:

**2. Membership.** The commission consists of the director of the division of environmental health within the Department of Health and Human Services or the director's designee; the Director of the Bureau of Geology and Natural Areas and Coastal Resources within the Department of Conservation or the director's designee; the Commissioner of Transportation or the commissioner's designee; and 4 public members, 3 of whom must be well drillers.

**Sec. KK-20. 32 MRSA §4700-G, sub-§6**, as amended by PL 1999, c. 556, §29, is further amended to read:

**6. Administrative provision.** The department shall administer the affairs and activities of the commission, keep all books and records, excluding data reports. All appropriations for use of the commission must be made to the department. The Department of Conservation, Bureau of Geology and Natural Areas and Coastal Resources shall keep all well data reports and work with the department in the administration of the commission's activities.

**Sec. KK-21. 33 MRSA §1213**, as enacted by PL 1973, c. 616, §1, is amended to read:

**§1213. Water boundaries**

For the purposes of this chapter, the ~~State Planning Office is directed to~~ Department of Conservation, Bureau of Geology, Natural Areas and Coastal Resources shall draw the water boundaries of the 8 coastal counties in order to determine in which registry of deeds the island ~~shall must~~ be registered. These lines ~~shall must~~ be drawn in accordance with the corporate charters of the counties as amended. In instances in which the charter does not clearly specify the seaward boundaries of the counties, the boundaries ~~shall must~~ be drawn in accordance with state law and the principles contained in the International Convention for the Contiguous and Territorial Sea in determining seaward boundaries between adjacent nation states.

**Sec. KK-22. 35-A MRSA §3451, sub-§9, ¶H**, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

H. Scenic viewpoints located in the coastal area, as defined by Title 38, section 1802, subsection 1, that are ranked as having state or national significance in terms of scenic quality in:

(1) One of the scenic inventories prepared for and published by the Executive Department, State Planning Office: "Method for Coastal Scenic Landscape Assessment with Field Results for Kittery to Scarborough and Cape Elizabeth to South Thomaston," Dominic, et al., October 1987; "Scenic Inventory Mainland Sites of Penobscot Bay," Dewan and Associates, et al., August 1990; or "Scenic Inventory: Islesboro, Vinalhaven, North Haven and Associated Offshore Islands," Dewan and Associates, June 1992; or

(2) A scenic inventory developed by or prepared for the Executive Department, ~~former State Planning Office~~ or the Department of Conservation in accordance with section 3457.

**Sec. KK-23. 35-A MRSA §3457, sub-§2**, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

**2. Scenic inventory.** ~~The Executive Department, State Planning Office~~ Department of Conservation, Bureau of Geology, Natural Areas and Coastal Resources shall adopt rules regarding the methodology for conducting a scenic inventory of scenic resources of state or national significance that are located in the coastal area, as defined by Title 38, section 1802, subsection 1, in a manner comparable to that used for an inventory listed in section 3451, subsection 9, paragraph H, subparagraph (1). ~~The office~~ Department of Conservation, Bureau of Geology, Natural Areas and Coastal Resources may contract with an outside entity for the preparation of a scenic inventory conducted pursuant to the methodology developed pursuant to this subsection.

**Sec. KK-24. 38 MRSA §361-A, sub-§1-D**, as amended by PL 1999, c. 556, §30, is further amended to read:

**1-D. Aquifer.** "Aquifer" means a geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water, as identified by the Bureau of Geology ~~and~~ Natural Areas and Coastal Resources, Maine Geological Survey within the Department of Conservation.

**Sec. KK-25. 38 MRSA §401, 7th ¶**, as enacted by PL 1979, c. 472, §12, is amended to read:

It is the intention of the Legislature that the Bureau of Geology, Natural Areas and Coastal Resources provide coordination and develop programs for the collection and analysis of information relating to the

nature, extent and quality of aquifers and aquifer recharge areas.

**Sec. KK-26. 38 MRSA §402**, as amended by PL 1999, c. 556, §31, is further amended to read:

**§402. Research**

The Bureau of Geology, Natural Areas and Coastal Resources in cooperation with the Department of Environmental Protection, is authorized to conduct research and studies to determine recharge and cleaning rates of ground water in different sand and gravel and bedrock formations.

The Bureau of Geology ~~and~~ Natural Areas and Coastal Resources, Maine Geological Survey within the Department of Conservation in cooperation with other agencies as appropriate shall conduct a 3-year program to assess the impact of agricultural practices and chemicals on ground water quality in selected agricultural areas and selected aquifers. The program must evaluate the extent and level of contamination associated with pesticide use, the mechanisms by which pesticides move through the soil and into ground water supplies, the synergistic effects of these substances and their persistence in ground water.

The survey shall report annually its progress to the joint standing committee of the Legislature having jurisdiction over natural resources.

**Sec. KK-27. 38 MRSA §410-I, sub-§1**, as enacted by PL 1991, c. 345 and amended by PL 2003, c. 689, Pt. B, §7, is further amended to read:

**1. Agency cooperation.** The commissioner shall cooperate and coordinate with the Commissioner of Agriculture, Food and Rural Resources; the Commissioner of Conservation; the Commissioner of Transportation; the Commissioner of Economic and Community Development; the Commissioner of Health and Human Services; ~~and~~ the Commissioner of Marine Resources; ~~and the Director of the State Planning Office~~ to ensure a coordinated approach to nonpoint source pollution control for agriculture, forestry, transportation and development.

**Sec. KK-28. 38 MRSA §546-B, sub-§1**, as enacted by PL 1991, c. 454, §6, is amended to read:

**1. Sensitive area identification and data management.** The commissioner, in consultation with the Department of Marine Resources, the Department of Inland Fisheries and Wildlife, the Department of Conservation, ~~the State Planning Office~~, the United States Fish and Wildlife Service and other appropriate agencies and organizations, both public and private, shall assess the nature and extent of sensitive areas and resources in the marine environment that may be threatened by oil spills and develop a system to collect and maintain the necessary data. The commissioner shall ensure that the duplication of effort among agencies

and creation of incompatible data and ~~data bases~~ data-bases are minimized.

**Sec. KK-29. 38 MRSA §549**, as amended by PL 1999, c. 556, §36, is further amended to read:

**§549. Personnel and equipment**

The commissioner shall establish and maintain at such ports within the State, and other places as the commissioner determines, employees and equipment necessary to carry out this subchapter. The commissioner, subject to the Civil Service Law, may employ personnel necessary to carry out the purposes of this subchapter, and shall prescribe the duties of those employees. The salaries of those employees and the cost of that equipment must be paid from the Maine Coastal and Inland Surface Oil Clean-up Fund established by this subchapter. The commissioner and the Director of the Bureau of Geology ~~and~~ Natural Areas and Coastal Resources shall periodically consult with each other relative to procedures for the prevention of oil discharges into the coastal waters of the State from offshore drilling production facilities. Inspection and enforcement employees of the department in their line of duty under this subchapter have the powers of a constable.

**Sec. KK-30. 38 MRSA §1804**, as enacted by PL 2001, c. 595, §1, is amended to read:

**§1804. Interagency review of coastal water access issues**

The ~~Executive Department, State Planning Office~~ of Conservation and the Department of Marine Resources, within existing budgeted resources, shall convene a working group of staff from all state agencies that deal with coastal water access issues to share data, program activities and areas for collaboration on coastal water access issues. Each agency shall identify the coastal water access data that the agency has, the coastal water access data that the agency needs and potential funding sources for the collection of the needed data. Other stakeholders may be included as appropriate. The ~~State Planning Office~~ Department of Conservation and the Department of Marine Resources shall submit a report of the working group's activities, including how the agencies can work cooperatively to make creative use of available funds to address both recreational and commercial access needs and to optimize projects that are multiuse in nature to the joint standing committee of the Legislature having jurisdiction over marine resources matters by January 15th of every odd-numbered year.

**Sec. KK-31. 38 MRSA §1905, sub-§1**, as amended by PL 1999, c. 556, §40, is further amended to read:

**1. Maps; coastal barriers identified.** Maine's coastal barriers are identified on maps, available for public review, at the Department of Conservation,

Bureau of Geology ~~and~~ Natural Areas and Coastal Resources, Maine Geological Survey office in Augusta. They are referred to as the Maine Coastal Barrier Resources Systems and are numbered consistent with the United States Coastal Barriers Resource Act.

**Sec. KK-32. Transition provisions; Maine Coastal Program-related matters.** The following provisions apply to reassignment of duties, responsibilities and activities regarding management and administration and implementation of aspects of the State's federally approved coastal zone management program from the Executive Department, State Planning Office to the Department of Conservation, Bureau of Geology, Natural Areas and Coastal Resources.

1. The Governor shall designate the Department of Conservation to receive and administer implementation grants for and serve as the state agency for federal consistency review as provided by the Maine Coastal Program approved by the National Oceanic and Atmospheric Administration in September 1978 and as subsequently amended in accordance with the federal Coastal Zone Management Act of 1972, 16 United States Code, Sections 1451 to 1466 (2012). No later than one year following the effective date of this section, the Department of Conservation shall submit to the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management for its review and approval in accordance with 15 Code of Federal Regulations, Part 923 any changes to the Maine Coastal Program necessary to conform the program to the intent of this section.

2. Six authorized positions and incumbent personnel as of April 1, 2012 in the State Planning Office assigned to the Maine Coastal Program are transferred to the Department of Conservation, Bureau of Geology, Natural Areas and Coastal Resources. Those employees retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

3. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, the State Controller, upon request of the State Budget Officer and with the approval of the Governor, shall transfer to the proper account in the Department of Conservation all accrued expenditures, assets and liabilities, including but not limited to any contractual obligations, balances, appropriations, allocations, transfers, revenues and other available funds, in any account or subdivision of an account of the State Planning Office established for administration of funds related to management of coastal resources, including but not limited to grant funds from the National Oceanic and Atmospheric Administration pursuant to the federal Coastal Zone Management Act of 1972, 16 United States Code, Sections 1451 to 1466 (2012). Nothing in this section changes or is intended to change or otherwise affect

the purposes or uses for which any funds transferred pursuant to this section may be expended.

**Sec. KK-33. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 12, chapter 201-A, subchapter 1, in the subchapter headnote, the words "bureau of geology and natural areas" are amended to read "bureau of geology, natural areas and coastal resources" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. KK-34. Effective date.** This Part takes effect July 1, 2012.

#### PART LL

**Sec. LL-1. 5 MRSA §7504**, as enacted by PL 1995, c. 54, §1, is amended to read:

##### **§7504. Staff and administrative services**

The ~~State Planning Office~~ Department of Education shall provide staff and administrative services as follows.

**1. Executive director.** The ~~Director of the State Planning Office with the advice and consent of Commissioner of Education, in consultation with the commission,~~ shall hire an executive director as a member of the ~~State Planning Office~~ Department of Education staff. The executive director oversees day-to-day operations of the commission, hires staff members with the approval of the commission and the ~~Director of the State Planning Office,~~ Commissioner of Education and carries out other responsibilities as directed by the commission.

**2. Administrative services.** The ~~State Planning Office~~ Department of Education shall provide the executive director and the commission with continuing administrative support as appropriate. The ~~State Planning Office~~ Department of Education may establish a dedicated account on behalf of the commission to receive funds contributed by private and public agencies for use solely for commission purposes.

**Sec. LL-2. Transition provisions; Maine Commission for Community Service matters.** The following provisions apply to the reassignment of duties, responsibilities and activities of the Maine Commission for Community Service.

1. Five authorized positions and incumbent personnel as of April 1, 2012 in the Executive Department, State Planning Office assigned to the Maine Commission for Community Service are transferred to the Department of Education, Maine Commission for Community Service. These employees retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

2. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, the State Controller, upon request of the State Budget Officer and with the approval of the Governor, shall transfer to the proper account in the Department of Education, Maine Commission for Community Service program all accrued expenditures, assets and liabilities, including but not limited to any contractual obligations, balances, appropriations, allocations, transfers, revenues and other available funds, in any account or subdivision of an account of the State Planning Office established for funds administered by the Maine Commission for Community Service. Nothing in this section changes or is intended to change or otherwise affect the purposes or uses for which any funds transferred pursuant to this section may be expended.

**Sec. LL-3. Effective date.** This Part takes effect July 1, 2012.

#### PART MM

**Sec. MM-1. 2 MRSA §9, sub-§§1 and 2**, as enacted by PL 2007, c. 656, Pt. C, §1, are amended to read:

**1. Office established.** The Governor's ~~Office of Energy Independence and Security~~ Office, referred to in this section as "the office," is established in the Executive Department to carry out responsibilities of the State relating to energy resources, planning and development. The office is directly responsible to the Governor.

**2. Director.** The office is under the control and supervision of the Director of the Governor's ~~Office of Energy Independence and Security~~ Office, referred to in this section as "the director." The director is appointed by the Governor and serves at the pleasure of the Governor.

**Sec. MM-2. 2 MRSA §9, sub-§2-A**, as enacted by PL 2009, c. 372, Pt. H, §1, is repealed and the following enacted in its place:

**2-A. Funding.** The office is funded in accordance with this subsection.

A. The office is funded by federal funds that are available to and received by the office. Such federal funds may be applied to support the personal services and all other costs of the office.

B. To the extent federal funds are inadequate to meet the funding needs of the office, the office may receive funds from the Efficiency Maine Trust, established in Title 35-A, chapter 97, but only for that portion of the office's activities that support or reasonably relate to programs or activities of the Efficiency Maine Trust. The director shall keep an accounting of the office's resources devoted to its various duties and activities, including that portion of its resources devoted to activities in support of or reasonably related to pro-

grams or activities of the Efficiency Maine Trust. The office shall annually by January 15th provide the accounting to the joint standing committee of the Legislature having jurisdiction over energy matters. The joint standing committee of the Legislature having jurisdiction over energy matters shall make recommendations to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs with regard to any proposed allocation of the Efficiency Maine Trust funds to support the office. In accordance with any legislative allocation or deallocation of Efficiency Maine Trust funds to support the office, the director shall request from the Efficiency Maine Trust and the trust shall provide the allocated resources to the office.

C. Any additional funding of the office must be provided from the General Fund or other available resources.

**Sec. MM-3. 2 MRSA §9, sub-§3, ¶G,** as enacted by PL 2007, c. 656, Pt. C, §1, is amended to read:

G. Seek, accept and administer funds and partnerships with from public and private sources and develop partnerships with public and private entities to support the goals of the office, including, but not limited to, promoting energy efficiency, demand-side management and distributed generation;

**Sec. MM-4. 2 MRSA §9, sub-§§6 and 7** are enacted to read:

**6. Maine Energy Resources Development Program.** The Maine Energy Resources Development Program, referred to in this subsection as "the program," is established to promote energy research and demonstration activities related to both the use of indigenous, renewable resources and more efficient use of energy. The office, as funding allows, shall administer the program. The director may accept private money for the purpose of funding the program.

A. The director shall include, in the comprehensive state energy plan under subsection 3, paragraph C, a report that specifies, in regard to the program, the expenditure of program funds, the purposes for which the funds were used and the amount of the funds and the sources from which the funds were derived.

B. For all proposed program expenditures of \$10,000 or more, the director shall seek approval for those expenditures from the Governor. If the Governor approves, the director shall seek approval for those expenditures from the Legislature under the procedures authorizing the transfer of funds set forth in Title 5, section 1585.

**7. Reporting of petroleum inventories and deliveries.** The following provisions govern the reporting of petroleum inventories and deliveries.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings:

(1) "Petroleum product" means propane; gasoline; unleaded gasoline; gasohol; kerosene; #2 heating oil; diesel fuel; kerosene-based jet fuel; aviation gasoline; #4, #5 and #6 residual oil for utility and nonutility uses; and Bunker C oil;

(2) "Primary storage facility" means a facility that receives petroleum products into the State by pipeline or by ship; and

(3) "Primary supplier" means a refiner, marketer, distributor, firm or person who makes the first sale of any petroleum product to resellers or consumers in this State.

B. Each owner or lessee of a primary storage facility in the State shall make an accurate report of petroleum inventories and deliveries on the first and 3rd Monday of each month to the office on a form provided by the director. The form must contain a conspicuous statement of the penalties provided in paragraph D and must require, with regard to the owner's or lessee's primary storage facility, the following information:

(1) The total inventory of each petroleum product stored in the State, as measured within not more than 3 working days prior to the reporting date; and

(2) The quantities of each petroleum product delivery expected into the State within 15 days of the reporting date or within any longer period established by the director.

C. Each primary supplier of petroleum products shall make an accurate report of actual and anticipated deliveries on the 3rd Monday of each month to the office on a form provided by the director, unless the report is already being submitted in accordance with federal regulations. The form must contain a conspicuous statement of the penalties provided in paragraph D and must require the following information:

(1) Actual deliveries of all petroleum products in this State during the preceding calendar month;

(2) Anticipated deliveries of all petroleum products in this State during the following calendar month or during any longer period established by the director; and

(3) Allocation fractions for all petroleum products for the following month or for any longer period established by the director.

D. A person who violates this subsection is subject to the following penalties.

(1) An owner or lessee of a primary storage facility or a primary supplier who fails to provide the information required by this subsection commits a Class D crime. Violation of this subparagraph is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

(2) An owner or lessee of a primary storage facility or a primary supplier who knowingly or recklessly supplies false or misleading information is guilty of a violation of Title 17-A, section 453. An owner or lessee of a primary storage facility who supplies false or misleading information commits a civil violation for which a fine of \$2,500 may be adjudged.

E. The office shall provide reports to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters as follows:

(1) If the office determines, based on available information, that there is or may be a significant shortfall in supply inventories or anticipated deliveries into the State of home heating oil or kerosene, the office shall provide a report including:

(a) The information that suggests a supply shortfall;

(b) Current and anticipated inventories of home heating oil and kerosene storage supplies;

(c) Any recommendations of the office for actions by the State in response to the anticipated supply shortfall; and

(d) A report on inventories, deliveries, curtailments, shortfalls or other matters relating to the availability of petroleum products in this State, at the request of the joint standing committee of the Legislature having jurisdiction over utilities and energy matters.

**Sec. MM-5. 7 MRSA §2, 4th ¶**, as amended by PL 1991, c. 9, Pt. I, §6, is further amended to read:

In addition, the commissioner shall be concerned with the quality of life of Maine farmers and rural communities. The commissioner shall promote: farm financing and rural development proposals; conservation and preservation of agricultural lands; increased and improved production of beef, poultry, sheep, dairy

beef and other livestock; expanded and improved production of potatoes, fruits and other vegetables and horticultural ventures; coordinated foreign and domestic marketing of Maine agricultural products; in conjunction with the university, crop development and integrated pest management; and conservation of non-renewable energy resources and utilization of renewable energy resources in conjunction with the ~~State Planning Office~~ Governor's Energy Office. To accomplish these objectives, the commissioner is authorized for, or on behalf of, Maine's farmers and rural community: to engage in research and educational programs; to participate directly or indirectly in programs to encourage and enable individuals to enter agricultural or other rural enterprises; to institute litigation or upon request to represent farmers or other members of the rural community in litigation where the commissioner determines that such litigation may be beneficial to agricultural industry as a whole; and to exercise all other powers of an agency of State Government. The commissioner may study such issues and, consistent with statute, take such actions either individually, for, or on behalf of, the State's farmers or rural residents, or jointly with such other persons, agencies or organizations as the commissioner determines may benefit the State's farmers and rural communities. To further accomplish these objectives, the commissioner is authorized beginning July 1, 1991, on behalf of the State's rural community, to administer food assistance programs including the receipt, distribution and administration of federal and state funds, including block grants, for food assistance.

**Sec. MM-6. 10 MRSA §1023-K, sub-§1**, as amended by PL 2009, c. 124, §2, is further amended to read:

**1. Established; fund administration.** The Clean Fuel Vehicle Fund, referred to in this section as the "fund," is established under the jurisdiction of the authority to support production, distribution and consumption of clean fuels and biofuels. In administering the fund, the authority shall consult and provide opportunity for input from the Governor's ~~Office of Energy Independence and Security~~ Office within the Executive Department.

**Sec. MM-7. 10 MRSA §1023-K, sub-§3-B**, as enacted by PL 2009, c. 124, §2, is amended to read:

**3-B. Application of fund.** The fund may be used in accordance with this subsection.

A. The fund may be applied to carry out any power of the authority under or in connection with section 1026-A, subsection 1, paragraph A, subparagraph (1), division (c), including, but not limited to, the pledge or transfer and deposit of money in the fund as security for and the application of the fund to pay principal, interest and other amounts due on insured loans.

B. The fund may be used for direct loans to finance all or part of any clean fuel or sustainable biofuel vehicle project when the authority determines that:

- (1) The applicant demonstrates a reasonable likelihood that the applicant will be able to repay the loan;
- (2) The project is technologically feasible; and
- (3) The project will contribute to a reduction of or more efficient use of fossil fuels.

C. The fund may be used for grants to support clean fuel and sustainable biofuel production, distribution and consumption. The authority, in consultation with the Governor's ~~Office of Energy Independence and Security~~ Office within the Executive Department, shall establish a formula and method for the awarding of grants under this paragraph.

D. The fund may be used for reasonable development and administration costs for an online contribution process, in accordance with subsection 6.

E. The fund may be used for reasonable initial and ongoing administrative costs of the authority to implement this section.

The authority, in consultation with the Governor's ~~Office of Energy Independence and Security~~ Office within the Executive Department, shall adopt rules for determining eligibility, project feasibility, terms, conditions and security for loans under this section. Rules adopted pursuant to this subsection are routine technical rules under Title 5, chapter 375, subchapter 2-A.

**Sec. MM-8. 10 MRSA §1043, sub-§2, ¶O,** as amended by PL 2011, c. 586, §3, is further amended to read:

O. In the case of an energy distribution system project regulated by the Public Utilities Commission with respect to rates or terms of service or that requires, for construction or operation, authorization or certification from the commission, the following conditions are met.

- (1) The energy distribution system project has received all authorizations or certifications from the Public Utilities Commission necessary for construction and operation of the project. The authority may issue a certificate of approval for a project that has received conditional approvals or certifications from the commission, except that the authority's certificate becomes legally effective only upon fulfillment of the conditional provisions

of the commission's certificates or approvals. If the commission has approved rates to be charged by the project or has issued a certificate of public convenience and necessity for the project, the authority shall take into consideration any findings and conclusions of law of the commission, including any findings and conclusions pertaining to the need for the project and the financial viability of the project.

(2) The authority has reviewed and considered any comments provided by the Director of the Governor's ~~Office of Energy Independence and Security~~ Office and the Public Advocate.

(3) The authority has determined that the applicant is creditworthy and that there is a reasonable likelihood that the revenue obligation securities will be repaid through the revenues of the project and any other sources of revenues and collateral pledged to the repayment of those securities. In order to make these determinations, the authority shall consider such factors as it considers necessary and appropriate in light of the special purpose or other nature of the business entity owning the project and the specific purposes of the project to measure and evaluate the project and the sufficiency of the pledged revenues to repay the obligations, including, but not limited to:

- (a) Whether the individuals or entities obligated to repay the obligations have demonstrated sufficient revenues from the project or from other sources to repay the obligations and a reasonable probability that those revenues will continue to be available for the term of the revenue obligation securities;
- (b) Whether the applicant demonstrates a reasonable probability that the project will continue to operate and provide the public benefits projected to be created for the term of the revenue obligation securities;
- (c) Whether the applicant's creditworthiness is demonstrated by factors such as its historical financial performance, management ability, plan for marketing its product or service and ability to access conventional financing;
- (d) Whether the applicant meets or exceeds industry average financial performance ratios commonly accepted in determining creditworthiness in that industry;

- (e) Whether the applicant demonstrates that the need for authority assistance is due to the reduced cost and increased flexibility of the financing for the project that result from authority assistance and not from an inability to obtain necessary financing without the capital reserve fund security provided by the authority;
- (f) Whether collateral securing the repayment obligation is reasonably sufficient under the circumstances;
- (g) Whether the proposed project enhances the opportunities for economic development;
- (h) The effect that the proposed project financing has on the authority's financial resources;
- (i) The financial performance of similar projects;
- (j) The need for the project, as determined by the Public Utilities Commission and as indicated by any comments provided by the Director of the Governor's ~~Office of Energy Independence and Security~~ Office, other public officials and members of the public;
- (k) The nature and extent of customer commitment to use the project or the fuel or energy the project distributes or transmits;
- (l) The cost advantages to end users of the fuel or energy to be distributed or transmitted by the project, to the extent those advantages may affect market penetration by the project; and
- (m) The nature and extent of the applicant's equity contribution to payment of the costs of the project; such a contribution may not be less than 25% of the expected cost of the project.

This paragraph is repealed January 1, 2018.

**Sec. MM-9. 10 MRSA §1492, sub-§1**, as amended by PL 1989, c. 501, Pt. DD, §29, is further amended to read:

**1. Solar energy equipment.** "Solar energy equipment" means all controls, tanks, pumps, heat exchangers, collectors and all other equipment necessary for the collection, transfer and storage of solar energy, as determined by the ~~State Planning Office~~ Governor's Energy Office. Passive solar energy systems or those systems using natural means to collect, store and transfer solar energy ~~shall~~ may not be included under this chapter.

**Sec. MM-10. 10 MRSA §9722, sub-§2, ¶I**, as enacted by PL 2007, c. 699, §6, is amended to read:

I. An energy efficiency representative, recommended by the ~~director~~ Director of the Governor's ~~Office of Energy Independence and Security~~ Office within the Executive Department, who has experience or expertise in the design or implementation of energy codes or in the application of energy efficiency measures in residential or commercial construction;

**Sec. MM-11. 12 MRSA §405-A, sub-§4**, as enacted by PL 1987, c. 635, is amended to read:

**4. Review.** The ~~State Planning Office~~ Governor's Energy Office shall review the status of hydropower development on the St. Croix River and shall report to the joint standing committee of the Legislature having jurisdiction over energy and natural resources by January 1, ~~1993~~ 2013 and every 5 years thereafter. The report ~~shall~~ must include any recommendations for changes in the provisions of this section together with the justification for the changes. If the St. Croix River is included in any legislative Act or regulation ~~which~~ that directly or indirectly has as its effect the essential prohibition of construction of new dams or development or redevelopment of existing dams on the St. Croix River, this section ~~shall be~~ is repealed on the effective date of that Act or regulation.

**Sec. MM-12. 22 MRSA §666, sub-§§1 and 2**, as reenacted by PL 2007, c. 539, Pt. KK, §5, are amended to read:

**1. Damages to public health and safety.** If the State Nuclear Safety Inspector has reason to believe that any activity poses a danger to public health and safety, and after notifying the facility licensee and the United States Nuclear Regulatory Commission, the inspector shall immediately notify the Governor, ~~and~~ and the Commissioner of Health and Human Services ~~and~~ and the ~~State Nuclear Safety Advisor~~ Governor's Energy Office. This subsection may not be construed as precluding the State Nuclear Safety Inspector from discussing the safety inspector's concerns with the United States Nuclear Regulatory Commission or others before making a determination that any activity poses a danger to public health and safety.

**2. Reports.** The State Nuclear Safety Inspector, with the cooperation of the Director of Health Engineering, shall prepare a report of the safety inspector's activities under this chapter to be submitted July 1st of each year to the ~~State Nuclear Safety Advisor~~ Governor's Energy Office and the Legislature. The State Nuclear Safety Inspector shall prepare monthly reports for the ~~State Nuclear Safety Advisor~~ Governor's Energy Office, the President of the Senate and the Speaker of the House, with copies to the United States Nuclear Regulatory Commission and the facility licensee.

**Sec. MM-13. 22 MRSA §676, sub-§6,** as amended by PL 1989, c. 501, Pt. DD, §31, is further amended to read:

**6. Energy.** The ~~State Planning Office~~ Governor's Energy Office shall serve as liaison with the United States Department of Energy.

**Sec. MM-14. 35-A MRSA §122, sub-§1-B,** ¶A, as enacted by PL 2009, c. 655, Pt. A, §2, is amended to read:

- A. The panel includes the following members:
  - (1) The Director of the Governor's ~~Office of Energy Independence and Security~~ Office within the Executive Department or the director's designee;
  - (2) The Commissioner of Administrative and Financial Services or the commissioner's designee;
  - (3) The commissioner of each department or the director of any other state agency or authority that owns or controls land or assets within the statutory corridor under consideration or that commissioner's or director's designee; and
  - (4) Four members of the public appointed by the Governor in accordance with this subparagraph, subject to review by the joint standing committee of the Legislature having jurisdiction over utilities and energy matters and to confirmation by the Senate:
    - (a) One member with expertise in energy and utilities selected from candidates nominated by the President of the Senate;
    - (b) One member with expertise in real estate or finance selected from candidates nominated by the President of the Senate;
    - (c) One member representing industrial or commercial energy consumers selected from candidates nominated by the Speaker of the House; and
    - (d) One member representing residential energy consumers selected from candidates nominated by the Speaker of the House.

Public members serve 3-year terms, except that a vacancy must be filled for the unexpired portion of the term. A public member serves until a successor is appointed. A public member may serve a maximum of 2 consecutive terms. Compensation of public members is as provided in Title 5, section 12004-G, subsection 30-D.

**Sec. MM-15. 35-A MRSA §122, sub-§2,** ¶B, as amended by PL 2009, c. 655, Pt. A, §2, is further amended to read:

B. The commission may commence a proceeding to designate a petitioned corridor only upon the filing of a petition for the designation of a petitioned corridor by the Office of the Public Advocate, the Executive Department, Governor's ~~Office of Energy Independence and Security~~ Office or a potential developer.

**Sec. MM-16. 35-A MRSA §122, sub-§7,** ¶C, as amended by PL 2009, c. 655, Pt. A, §2, is further amended to read:

C. The commission may take and hold by right of eminent domain lands and easements within an energy infrastructure corridor in accordance with this paragraph, notwithstanding any transmission and distribution utility ownership of the lands or easements.

- (1) The commission may exercise the authority under this paragraph only in an adjudicatory proceeding upon a petition by the Office of the Public Advocate or the Executive Department, Governor's ~~Office of Energy Independence and Security~~ Office demonstrating that such action is urgently needed to avoid substantial harm to electricity consumers regarding anticipated activity associated with an energy infrastructure corridor. A determination by the commission that the exercise of eminent domain under this paragraph is urgently needed to avoid substantial harm to electricity consumers regarding anticipated activity associated with an energy infrastructure corridor constitutes reviewable final agency action.
- (2) The amount of any lands or easements taken by the commission pursuant to this subsection may be no greater than is required to avoid the harm to electricity consumers identified under subparagraph (1).
- (3) The right of eminent domain granted in this paragraph does not apply to personal property, fixtures or improvements that constitute transmission and distribution plant or an energy transport pipeline.
- (4) The commission may exercise the right of eminent domain for the purposes of this paragraph in the same manner and under the same conditions as set forth in chapter 65. For the purposes of the exercise of eminent domain authorized by this paragraph, the commission is both a person and the State.
- (5) The commission is authorized to assess transmission and distribution utilities to the

extent necessary to obtain sufficient funds to pay for lands and easements taken pursuant to this subsection.

(6) The commission, in an adjudicatory proceeding upon petition by the Office of the Public Advocate or the Executive Department, ~~Governor's Office of Energy Independence and Security Office~~, may transfer or convey to any person or state agency or authority lands and easements once acquired, except that a transmission and distribution utility or the owner of an energy transport pipeline whose lands or easements were taken pursuant to this paragraph must be given the first opportunity to acquire the lands or easements to the extent necessary or useful in the performance of its duties as a transmission and distribution utility or an owner of an energy transport pipeline.

(7) The commission shall report on the circumstances of any taking by eminent domain to the joint standing committee of the Legislature having jurisdiction over utilities and energy matters during the next regular session of the Legislature following the acquisition of lands or easements by eminent domain.

**Sec. MM-17. 35-A MRSA §4131, sub-§3,** ¶C, as amended by PL 1995, c. 254, §12, is further amended to read:

C. The Director of the ~~State Planning Office~~ Governor's Energy Office, or another employee of ~~the State Planning Office that office~~, as the director may from time to time designate in writing filed with the clerk of the agency, shall serve as a member of the board of directors.

**Sec. MM-18. 35-A MRSA §10103, sub-§2,** ¶A, as enacted by PL 2009, c. 372, Pt. B, §3, is amended to read:

A. The board consists of the following 9 voting members:

- (1) The ~~director~~ Director of the Governor's ~~Office of Energy Independence and Security Office~~;
- (2) The director of the Maine State Housing Authority; and
- (3) Seven members appointed by the Governor, reviewed by the joint standing committee of the Legislature having jurisdiction over energy matters and approved by the Senate. Among these 7 members must be persons who adequately represent the interests of commercial energy consumers, industrial energy consumers, small business energy consumers, residential energy consumers and low-income energy consumers; among these

members must be persons with knowledge of and experience in financial matters and consumer advocacy and who possess substantial management expertise or knowledge of or experience with conservation fund programs, carbon reduction programs or energy efficiency or climate change policy. The requirements of this subparagraph may be met through the appointment of one or more persons who satisfy more than one of the requirements, as long as at any one time the 7 members include among them members who adequately represent the identified interests and who ~~posses~~ possess the required knowledge, expertise and experience.

Appointed trustees serve 3-year terms. If an appointed trustee is unable to complete the term, the Governor shall appoint a replacement for the remainder of the unexpired term.

**Sec. MM-19. 37-B MRSA §742, sub-§2,** ¶B, as amended by PL 2005, c. 677, Pt. C, §2, is further amended to read:

B. Upon the issuance of an energy emergency proclamation and after consulting with the ~~Executive Department, State Planning Office~~ Governor's Energy Office, the Governor may exercise all the powers granted in this chapter, except as specifically limited by paragraph C. The powers of the Governor include, without limitation, the authority to:

- (1) Establish and implement programs, controls, standards, priorities and quotas for the allocation, conservation and consumption of energy resources;
- (2) Regulate the hours and days during which nonresidential buildings may be open and the temperatures at which they may be maintained;
- (3) Regulate the use of gasoline and diesel-powered land vehicles, watercraft and aircraft;
- (4) After consulting, when appropriate, with the New England governors and upon the recommendations of the Public Utilities Commission, regulate the generation, distribution and consumption of electricity;
- (5) Establish temporary state and local boards and agencies;
- (6) Establish and implement programs and agreements for the purposes of coordinating the emergency energy response of the State with those of the Federal Government and of other states and localities;

(7) Temporarily suspend truck weight and size regulations, but not in conflict with federal regulations;

(8) Regulate the storage, distribution and consumption of home heating oil; and

(9) If the energy emergency was caused by a lack of electric grid reliability in this State resulting from insufficient capacity resources, take appropriate action, in consultation with the Public Utilities Commission, to procure sufficient capacity resources including generation capacity and interruptible, demand response or energy efficiency capacity resources.

**Sec. MM-20. 38 MRSA §480-HH, sub-§3, ¶H,** as enacted by PL 2009, c. 270, Pt. A, §2, is amended to read:

H. Documentation that, in developing each plan required under paragraphs E to G, the applicant consulted with: the Department of Marine Resources, the Department of Inland Fisheries and Wildlife and the Department of Conservation; the Maine Land Use Regulation Commission and the ~~Executive Department, State Planning Office~~ Governor's Energy Office; the United States Army Corps of Engineers, the United States Coast Guard, the National Marine Fisheries Service, the National Park Service and the United States Fish and Wildlife Service; the lobster management policy council established under Title 12, section 6447 for the lobster management zone in which the offshore wind energy demonstration project is proposed; each municipality in which or adjacent to which the project is proposed; and any other local, state or federal agency the applicant considers appropriate. This documentation must include copies of these agencies' comments and recommendations on the plan, if any, and specific descriptions of how the agencies' comments are accommodated by the plan, including the applicant's reasons, based on project-specific information, for any agency recommendation not adopted. The applicant shall allow a minimum of 60 days for the agencies to review and make comments and recommendations on each draft plan before it is filed with the department. No more than 30 days prior to its initiation, the applicant shall notify each municipality within or adjacent to which it intends to site and operate an offshore wind energy demonstration project and invite its participation in the consultation required under this paragraph;

**Sec. MM-21. 38 MRSA §634, sub-§3,** as amended by PL 1989, c. 501, Pt. DD, §46 and affected by c. 890, Pt. A, §40 and amended by Pt. B, §183, is further amended to read:

**3. Application review.** Within 10 working days of receiving a completed application, the commissioner shall notify the applicant of the official date on which the application was accepted.

The commissioner shall circulate the application among the Department of Environmental Protection, Department of Conservation, Department of Inland Fisheries and Wildlife, Department of Marine Resources, Department of Transportation, Maine Historic Preservation Commission, ~~State Planning Office~~ Governor's Energy Office, Public Utilities Commission and the municipal officials of the municipality in which the project is located. The ~~State Planning Office~~ Governor's Energy Office and the Public Utilities Commission shall submit written comments on section 636, subsection 7, paragraph F. For projects within the jurisdiction of the Maine Land Use Regulation Commission, the director may request and obtain technical assistance and recommendations from the staff of the department. The Commissioner of Environmental Protection shall respond to the requests in a timely manner. The recommendations of the Commissioner of Environmental Protection must be considered by the commission in acting upon a project application.

**Sec. MM-22. 38 MRSA §640, first ¶,** as enacted by PL 1989, c. 453, §2, is amended to read:

Unless otherwise provided in accordance with regulations promulgated by the Federal Energy Regulatory Commission, for all existing hydropower projects located in Maine currently licensed under the Federal Power Act, and for all proposed hydropower projects requiring a license to operate under the Federal Power Act, all state agencies that review, comment on and consult in the proposed studies, plans, terms and conditions in the course of licensing or relicensing these projects, including the ~~State Planning Office~~ Department of Conservation, the Governor's Energy Office, the Department of Environmental Protection, the Department of Inland Fisheries and Wildlife and the Department of Marine Resources, shall cooperatively take the following steps to ensure that interested members of the public are informed of, and allowed to participate in, the review and comment process.

**Sec. MM-23. 38 MRSA §1480-A,** as amended by PL 1995, c. 642, §19 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**§1480-A. Joint hearings; intervention**

The Department of Health and Human Services or the ~~State Planning Office~~ Governor's Energy Office may intervene in any federal licensing proceeding to carry out the purpose of this chapter.

**Sec. MM-24. Rename Governor's Office of Energy Independence and Security program.** Notwithstanding any other provision of law,

the Governor's Office of Energy Independence and Security program within the Executive Department is renamed the Governor's Energy Office program.

**Sec. MM-25. Transition provisions; Governor's Energy Office matters.** The following provisions apply to the reassignment of energy policy-related duties and responsibilities of the Executive Department, State Planning Office to the Governor's Energy Office.

1. Two authorized positions and incumbent personnel as of April 1, 2012 in the State Planning Office currently assigned to duties and responsibilities of the Governor's Energy Office are transferred to the Governor's Energy Office. Those employees retain their accrued fringe benefits, including but not limited to vacation and sick leave, health and life insurance and retirement benefits.

2. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, the State Controller, upon request of the State Budget Officer and with the approval of the Governor, shall transfer to the proper account in the Governor's Energy Office all accrued expenditures, assets and liabilities, including but not limited to any contractual obligations, balances, appropriations, allocations, transfers, revenues and other available funds, in any account or subdivision of an account of the State Planning Office established for administration of grant funds previously allocated to the Governor's Energy Office. Nothing in this section changes or is intended to change or otherwise affect the purposes or uses for which any funds transferred pursuant to this section may be expended.

**Sec. MM-26. Effective date.** This Part takes effect July 1, 2012.

#### PART NN

**Sec. NN-1. General transition provisions.** The following provisions apply to the reassignment of duties and responsibilities and transfer of personnel of the Executive Department, State Planning Office to other agencies as provided in this Act.

1. By December 1, 2013, the Director of the Governor's Office of Policy and Management within the Executive Department shall submit legislation to the First Regular Session of the 126th Legislature to revise remaining references, if any, to the State Planning Office in the Maine Revised Statutes and to make any additional technical changes to the law needed to effectuate the intent of this Act. All references to the State Planning Office that are in the Maine Revised Statutes, private and special laws, resolves, rules, procedures, ordinances or plans that are in effect, in operation or are adopted by a state agency or other instrumentality of the State following the effective date of this Act must be construed to refer to the appropriate state agency, instrumentality or other entity in accordance with the terms and intent of this Act.

2. All rules and procedures that have been adopted by the State Planning Office and that are in effect on July 1, 2012 remain in effect until rescinded, revised or amended by the appropriate authority in accordance with this Act and other applicable state law. Nothing in this section is intended to increase, diminish or otherwise affect the rule-making authority of any agency or other instrumentality of State Government.

3. All personal property and equipment previously belonging to or allocated for the use of a program of the State Planning Office must be transferred to the agency to which that program is transferred by this Act. The Department of Administrative and Financial Services shall oversee and resolve any questions regarding such transfer in accordance with the intent of this Act.

4. Records of the State Planning Office that are needed for continued performance of a duty or function previously assigned to the State Planning Office must be transferred to the agency to which that duty or function is assigned by this Act. Other essential records of the State Planning Office must be transferred to the Department of Administrative and Financial Services to be maintained and stored pursuant to standard procedure.

5. The transfer of all personal property, equipment, records and personnel under this Act, except where provided otherwise, is effective July 1, 2012.

**Sec. NN-2. Effective date.** This Part takes effect July 1, 2012.

#### PART OO

**Sec. OO-1. 20-A MRSA §7001, sub-§1-A,** as enacted by PL 2005, c. 662, Pt. A, §15, is amended to read:

**1-A. Child Development Services System.** "Child Development Services System" means ~~regional sites, or their successor sites, and the state intermediate educational unit under section 7209, subsection 3, or its successor, established~~ and any regional sites it chooses to establish and maintain, to ensure the provision of child find activities, early intervention services and free, appropriate public education services to eligible children.

**Sec. OO-2. 20-A MRSA §7001, sub-§2-B,** as enacted by PL 2005, c. 662, Pt. A, §15, is amended to read:

**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.

**Sec. OO-3. 20-A MRSA §7001, sub-§4-A,** as enacted by PL 2005, c. 662, Pt. A, §15, is repealed.

**Sec. OO-4. 20-A MRSA §7209,** as amended by PL 2007, c. 530, §1 and c. 572, Pt. B, §§1 to 4, is further amended 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-1. The commissioner or the commissioner's designee is responsible for developing and implementing a funding mechanism for the operation of the state intermediate educational unit established pursuant to subsection 3 and the delivery of services to eligible children with disabilities from birth to under 6 years of age.

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 a corrective 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 a corrective 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 a corrective action plan, the reports must describe how long the department expects the regional site to remain under an a corrective 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.~~

**3. State intermediate educational unit establishment; administrative functions.** 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;

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 con-

sidered 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 at the state level and at the regional sites, 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.

**3-A. State intermediate educational unit; program functions.** The state intermediate educational unit established pursuant to subsection 3, through a network of regional sites as appropriate, shall:

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

B. Engage in child count activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

C. Engage in 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;

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; and

G. 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 a child's eligibility for early intervention or free, appropriate public education.

**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;

A-1. To oversee the operation of the regional sites;

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.

**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.;

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;~~

~~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~~

~~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.~~

#### PART PP

**Sec. PP-1. 36 MRSA §1752, sub-§8-C** is enacted to read:

**8-C. Positive airway pressure equipment and supplies.** "Positive airway pressure equipment and supplies" means continuous positive air pressure and bilevel positive air pressure equipment and supplies, and repair and replacement parts for such equipment, used in respiratory ventilation.

**Sec. PP-2. 36 MRSA §1752, sub-§11, ¶B,** as amended by PL 2011, c. 209, §1 and affected by §5, is further amended to read:

B. "Retail sale" does not include:

- (1) Any casual sale;
- (2) Any sale by a personal representative in the settlement of an estate unless the sale is made through a retailer or the sale is made in the continuation or operation of a business;
- (3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented for a period of less than one year. For the purposes of this subparagraph, "automobile" includes a pickup truck or van with a gross vehicle weight of less than 26,000 pounds;
- (4) The sale, to a person engaged in the business of renting video media and video equip-

ment, of video media or video equipment for rental;

(5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;

(6) The sale, to a person engaged in the business of providing cable or satellite television services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services;

(7) The sale, to a person engaged in the business of renting furniture or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105;

(8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953;

(9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;

(10) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;

(11) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual sale;

(12) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale;

(13) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale; ~~or~~

(14) The sale of repair parts used in the performance of repair services on telecommunications equipment as defined in section 2551, subsection 19 pursuant to an extended service contract that entitles the purchaser to specific

benefits in the service of the telecommunications equipment for a specific duration; or

(15) The sale of positive airway pressure equipment and supplies for rental for personal use to a person engaged in the business of renting positive airway pressure equipment.

**Sec. PP-3. 36 MRSA §1760, sub-§94** is enacted to read:

**94. Positive airway pressure equipment and supplies.** Positive airway pressure equipment and supplies sold or leased for personal use.

**Sec. PP-4. Retroactivity.** Those sections of this Part that enact the Maine Revised Statutes, section 1752, subsection 8-C and section 1760, subsection 94 and amend section 1752, subsection 11, paragraph B apply retroactively to sales occurring on or after January 1, 2012.

## PART QQ

**Sec. QQ-1. 36 MRSA §111, sub-§7,** as amended by PL 1997, c. 526, §6, is further amended to read:

**7. Taxpayer.** "Taxpayer" means any person required to file a return under this Title or to pay, withhold and pay over or collect and pay over any tax imposed by this Title. For the purposes of sections 171, 175-A and 176-A, "taxpayer" also means any person obligated to the State for the payment of a fee, fine, penalty or other obligation to the State provided for by law, if this obligation is subject to collection by the assessor pursuant to an agreement entered into by the bureau and another agency of the State. "Taxpayer" also means any pass-through entity doing business in the State or having a Maine resident member, including an S corporation, general partnership, limited partnership, limited liability partnership, limited liability company or similar entity, that is not taxed as a C corporation for federal tax purposes.

**Sec. QQ-2. 36 MRSA §187-B, sub-§1-A,** as enacted by PL 2007, c. 437, §3 and affected by §22, is repealed.

**Sec. QQ-3. 36 MRSA §187-B, sub-§7,** as amended by PL 2011, c. 380, Pt. L, §1, is further amended to read:

**7. Reasonable cause.** The assessor shall waive or abate or, in the case of those penalties that do not accrue automatically under subsection 6, refrain from imposing any penalty imposed by subsection 1, ~~4-A~~, 2, 4-A, 4-B, 5-A or 5-B or by the terms of the International Fuel Tax Agreement if grounds constituting reasonable cause are established by the taxpayer or if the assessor determines that grounds constituting reasonable cause are otherwise apparent. Reasonable cause includes, but is not limited to, the following circumstances:

A. The failure to file or pay resulted directly from erroneous information provided by the Bureau of Revenue Services;

B. The failure to file or pay resulted directly from the death or serious illness of the taxpayer or a member of the taxpayer's immediate family;

C. The failure to file or pay resulted directly from a natural disaster;

D. A return that was due monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 12 months were timely;

E. A return that was due other than monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 3 years were timely;

F. The taxpayer has supplied substantial authority justifying the failure to file or pay; or

G. The amount subject to a penalty imposed by subsection 1, 2, 4-A or 5-A is de minimis when considered in relation to the amount otherwise properly paid, the reason for the failure to file or pay and the taxpayer's compliance history.

Absent a determination by the assessor that grounds constituting reasonable cause are otherwise apparent, the burden of establishing grounds for waiver or abatement is on the taxpayer.

**Sec. QQ-4. 36 MRSA §5102, sub-§10,** as amended by PL 1999, c. 414, §39, is further amended to read:

**10. Taxable corporation.** "Taxable corporation" means, for any taxable year, a corporation that, at any time during that taxable year, realized Maine net income. ~~"Taxable corporation" and includes any S corporation that is required by section 5241 to file a return and with realized Maine net income that is subject to federal tax under the Code, Section 1374 and 1375.~~

**Sec. QQ-5. 36 MRSA §5222, sub-§6,** as enacted by P&SL 1969, c. 154, §F, is repealed.

**Sec. QQ-6. 36 MRSA §5241,** as amended by PL 1997, c. 746, §23 and affected by §24, is repealed.

**Sec. QQ-7. 36 MRSA §5245,** as amended by PL 2011, c. 1, Pt. CC, §4 and affected by §5, is repealed.

**Sec. QQ-8. Application.** This Part applies to tax years beginning on or after January 1, 2012.

## PART RR

**Sec. RR-1. Calculation and transfer; General Fund; business communications lines savings.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in section 2 of this Part that applies against

each General Fund account for executive branch departments and agencies statewide and the judicial branch as a result of lowered costs of business communications lines. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations in fiscal years 2011-12 and 2012-13. The State Budget Officer shall provide a report of the transferred amounts to the Joint Standing Committee on Appropriations and Financial Affairs no later than October 1, 2012.

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Departments and Agencies - Statewide 0016**

Initiative: Reduces funding based on savings achieved as a result of lowered costs of business communications lines.

GENERAL FUND	2011-12	2012-13
All Other	(\$45,360)	(\$77,760)
<b>GENERAL FUND TOTAL</b>	<b>(\$45,360)</b>	<b>(\$77,760)</b>

**PART SS**

**Sec. SS-1. 5 MRSA §943, sub-§1, ¶E,** as amended by PL 1983, c. 862, §15, is further amended to read:

E. ~~Assistant to the Commissioner for Public Director of Legislative Affairs;~~

**Sec. SS-2. 26 MRSA §1401-B, sub-§1, ¶B,** as amended by PL 2007, c. 1, Pt. D, §4, is further amended to read:

B. The commissioner shall appoint to serve at the commissioner's pleasure:

- (2) ~~Assistant to the Commissioner for Public Director of Legislative Affairs;~~
- (3) Deputy Commissioner;
- (4) Director, Bureau of Labor Standards;
- (5) Beginning April 15, 1996, Executive Director, Bureau of Employment Services;
- (6) Executive Director, Office of Operations; and
- (7) Director, Bureau of Rehabilitation Services.

**PART TT**

**Sec. TT-1. Transfer of funds; Department of Inland Fisheries and Wildlife carrying ac-**

**count.** On or before August 1, 2012, the State Controller shall transfer \$32,555 from the Carrying Balances - Inland Fisheries and Wildlife program, General Fund account in the Department of Inland Fisheries and Wildlife to the Resource Management Services - Inland Fisheries and Wildlife program, General Fund account in the Department of Inland Fisheries and Wildlife and transfer \$32,555 from the Carrying Balances - Inland Fisheries and Wildlife program, General Fund account in the Department of Inland Fisheries and Wildlife to the Fisheries and Hatcheries Operations program, General Fund account in the Department of Inland Fisheries and Wildlife to partially fund the reorganization of 3 positions that are included in the retirement incentive program to Biologist II positions.

**PART UU**

**Sec. UU-1. Lapsed balances; Veterans' Organization Tax Reimbursement program; General Fund account.** Notwithstanding any other provision of law, \$55,798 of unencumbered balance forward in the All Other line category in the Veterans' Organization Tax Reimbursement program, General Fund account in the Department of Administrative and Financial Services lapses to the General Fund in fiscal year 2011-12.

**Sec. UU-2. Lapsed balances; Veterans' Organization Tax Reimbursement program; General Fund account.** Notwithstanding any other provision of law, \$5,766 of unencumbered balance forward in the All Other line category in the Veterans' Organization Tax Reimbursement program, General Fund account in the Department of Administrative and Financial Services lapses to the General Fund in fiscal year 2011-12.

**PART VV**

**Sec. VV-1. Calculation and transfer; General Fund savings; central administration.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in the Statewide Service Center account in section 2 of this Part that applies against each General Fund account for executive branch departments and independent agencies statewide from implementing a decrease in charges made by the Department of Administrative and Financial Services, Division of Financial and Personnel Services for its services. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations in fiscal years 2011-12 and 2012-13. The State Budget Officer shall provide a report of the transferred amounts to the Joint Standing Committee on Appropriations and Financial Affairs no later than October 1, 2012.

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

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Executive Branch Departments and Independent Agencies - Statewide 0017**

Initiative: Recognizes savings from implementing a decrease in charges made by the Division of Financial and Personnel Services in the Department of Administrative and Financial Services for its services.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	(\$1,134,518)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,134,518)</b>

**PART WW**

**Sec. WW-1. 25 MRSA §2396, first ¶,** as amended by PL 1997, c. 728, §17, is further amended to read:

The Office of the State Fire Marshal is established as a bureau within the Department of Public Safety. The Commissioner of Public Safety, with the advice and consent of the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over public safety matters and to confirmation by the Legislature, shall appoint as State Fire Marshal a person experienced in fire prevention work, ~~who may be removed for cause by the commissioner to serve for a term of 4 years coterminous with the Governor. The State Fire Marshal may be removed by impeachment or by the Governor on the address of both branches of the Legislature.~~ The Commissioner of Public Safety or the commissioner's designee shall appoint, subject to the Civil Service Law, such investigators, inspectors and other employees as are necessary to carry out the duties assigned to the office. The State Fire Marshal and the Commissioner of Public Safety or the commissioner's designee have all of the duties and responsibilities assigned to the office.

**PART XX**

**Sec. XX-1. Personal Services savings; transfer to General Fund undedicated revenue.** Notwithstanding the Maine Revised Statutes, Title 5, section 1582, subsection 4 or any other provision of law, the State Controller is authorized to transfer the first \$6,000,000 of unexpended Personal Services appropriations that would otherwise lapse to the Salary Plan program in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund at the close of fiscal year 2011-12.

**Sec. XX-2. General Fund Salary Plan; transfer to General Fund undedicated revenue.** Notwithstanding any other provision of law, the State Controller is authorized to transfer up to \$6,000,000 from the Salary Plan program in the Department of Administrative and Financial Services to the unappropriated surplus of the General Fund at the close of fiscal year 2011-12 in the event that the total savings in section 1 of this Part are not achieved.

**PART YY**

**Sec. YY-1. Lapsed balances; Agricultural Vitality Program - Carrying Account; General Fund.** Notwithstanding any other provision of law, \$6,072 of unencumbered balance forward in the All Other line category in the Agricultural Vitality Program - Carrying Account, General Fund account in the Department of Agriculture, Food and Rural Resources lapses to the General Fund in fiscal year 2011-12.

**PART ZZ**

**Sec. ZZ-1. Attrition savings.** Notwithstanding any other provision of law, the attrition rate for fiscal year 2012-13 only is increased from 5% to 6% for executive branch departments and agencies and the judicial branch.

**Sec. ZZ-2. Calculation and transfer; General Fund; attrition savings.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in section 3 of this Part that applies against each General Fund account for executive branch departments and agencies statewide and the judicial branch as a result of attrition savings. The State Budget Officer shall transfer the savings by financial order upon approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2012-13. The State Budget Officer shall provide a report of the transferred amounts to the Joint Standing Committee on Appropriations and Financial Affairs no later than October 1, 2012.

**Sec. ZZ-3. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Departments and Agencies - Statewide 0016**

Initiative: Reduces funding to reflect projected savings from the increase in the attrition rate from 5% to 6% for fiscal year 2012-13.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	(\$3,454,047)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$3,454,047)</b>

**PART AAA**

**Sec. AAA-1. Department of Health and Human Services; state psychiatric centers; transfers and adjustments to position count.**

The Commissioner of Health and Human Services shall review the current organizational structure of the State's psychiatric centers to improve organizational efficiency and cost-effectiveness within the centers. Notwithstanding any other provision of law, the State Budget Officer is authorized to transfer position counts and available balances by financial order in order to achieve the purposes of this section. In accordance with the requirements of the Maine Revised Statutes, Title 5, section 1585, a financial order describing such a transfer must be submitted by the Department of Administrative and Financial Services, Bureau of the Budget to the Office of Fiscal and Program Review 30 days before a transfer is to be implemented. In the case of extraordinary emergency transfers, the 30-day prior submission requirement may be waived by vote of the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Any transfer or adjustment pursuant to this section that would result in a program or mission change must be reported to the joint standing committee of the Legislature having jurisdiction over health and human services matters for review before the associated financial order is submitted to the Governor for approval. These transfers made prior to September 1, 2012 are considered adjustments to authorized position count, appropriations and allocations in fiscal year 2012-13. On or before June 30, 2013, the commissioner and the State Budget Officer shall provide the joint standing committees of the Legislature having jurisdiction over health and human services matters and appropriations and financial affairs a report on the authorized position count and appropriations and allocations transferred.

**Sec. AAA-2. Riverview Psychiatric Center; calculation and transfer.** Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of Unallocated funding appropriated in section 3 of this Part that applies against each line category in the Riverview Psychiatric Center program, General Fund account and transfer those amounts by financial order upon the approval of the Governor. The State Budget Officer shall determine the authorized position count related to the amount transferred to the Personal Services line category and transfer those positions from the Riverview Psychiatric Center program, Other Special Revenue Funds account to the Riverview Psychiatric Center program, General Fund account by financial order upon the approval of the Governor. These transfers are considered adjustments to authorized position count and appropriations and allocations in fiscal year 2012-13. The State Budget Officer shall submit a report on the au-

thorized position count and amounts transferred to the Joint Standing Committee on Appropriations and Financial Affairs on September 1, 2012.

**Sec. AAA-3. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)**

**Riverview Psychiatric Center 0105**

Initiative: Provides funding to offset a reduction in disproportionate share payments for individuals transferred from jails or prisons, for individuals for whom the court has ordered evaluations and for individuals determined to be incompetent to stand trial.

GENERAL FUND	2011-12	2012-13
Unallocated	\$0	\$3,176,972*\$0
GENERAL FUND TOTAL	\$0	\$3,176,972*\$0

**PART BBB**

**Sec. BBB-1. Review of Maine Public Broadcasting Network.** The Commissioner of Administrative and Financial Services shall consult with the Maine Public Broadcasting Network and the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency and other state agencies as needed on the following matters:

1. A determination of the cost incurred by the Maine Public Broadcasting Network to provide emergency broadcasting services to the State on a fee-for-service basis;
2. A survey of other ways in which Maine Public Broadcasting Network assets may be available to the State for technical support, bandwidth and other data transmission services on a contractual basis;
3. A report from the Maine Public Broadcasting Network on the status of its strategic plan and the launch of a campaign to raise capital; and
4. A plan whereby, over the next 5 years, the appropriation provided by the State to the Maine Public Broadcasting Network for the purpose of providing a statewide public broadcasting network is gradually reduced and replaced by a fee-for-service contract to be agreed upon by the State and the Maine Public Broadcasting Network.

\*Disapproved pursuant to exercise of line-item veto (4/14/12)

**Sec. BBB-2. Report.** The Commissioner of Administrative and Financial Services shall submit a report, together with any necessary implementing legislation, to the Joint Standing Committee on Appropriations and Financial Affairs by September 15, 2012. The joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs may report out a bill to the First Regular Session of the 126th Legislature.

**PART CCC**

**Sec. CCC-1. Debt Service - Government Facilities Authority program; balance transfer.** Notwithstanding any other provision of law, any balance remaining in the Debt Service - Government Facilities Authority program at the end of fiscal year 2011-12 is transferred to the Capital Construction/Repairs/Improvements - Administration program in the Department of Administrative and Financial Services.

**PART DDD**

**Sec. DDD-1. PL 2011, c. 380, Pt. JJJ, §1,** as amended by PL 2011, c. 477, Pt. HH, §1, is further amended to read:

**Sec. JJJ-1. Transfer from Other Special Revenue Funds to unappropriated surplus of the General Fund.** Notwithstanding any other provision of law, the State Controller shall transfer ~~\$103,500,000~~ \$91,000,000 on June 30, 2012 from Other Special Revenue Funds to the unappropriated surplus of the General Fund. On July 1, 2012, the State Controller shall transfer ~~\$103,500,000~~ \$91,000,000 from the General Fund unappropriated surplus to Other Special Revenue Funds as repayment. This transfer is considered an interfund advance.

**PART EEE**

**Sec. EEE-1. 34-A MRSA §1218** is enacted to read:

**§1218. Electronic Monitoring Fund**

The Electronic Monitoring Fund is established in the department as an Other Special Revenue Funds program to provide funding for the expanded use of electronic monitoring in cases involving domestic violence.

1. Commissioner's powers. The commissioner may receive and use money donated for the purpose of this section.

2. Electronic Monitoring Fund. All funds received for the purpose of this section must be credited to the Electronic Monitoring Fund.

**Sec. EEE-2. Electronic monitoring in cases involving domestic violence.** The Commissioner of Corrections shall consult with the Maine Commission on Domestic and Sexual Abuse estab-

lished pursuant to the Maine Revised Statutes, Title 19-A, section 4013 and other interested parties to develop a plan to expand the use of electronic monitoring in cases involving domestic violence, subject to the availability of donations made to the Electronic Monitoring Fund established in Title 34-A, section 1218.

**Sec. EEE-3. Appropriations and allocations.** The following appropriations and allocations are made.

**CORRECTIONS, DEPARTMENT OF**

**Electronic Monitoring Fund (N141)**

Initiative: Allocates funds to establish the Electronic Monitoring Fund.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$500
	\$0	\$500
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$500</b>

**PART FFF**

**Sec. FFF-1. Savings.** Notwithstanding any other provision of law, the Commissioner of Education and the Commissioner of Labor shall work together to identify \$287,541 in efficiencies and savings within existing General Fund programs of the Department of Education and the Department of Labor in order to support the cost of one full-time Blindness and Rehabilitation Specialist position in the Department of Labor, Division for the Blind and Visually Impaired; one Teacher of Visually Impaired Children contracted position; and 2 Vision Rehabilitation Therapist contracted positions to provide services to blind and visually impaired children and adults.

**Sec. FFF-2. Report.** No later than September 15, 2012, the Commissioner of Education and the Commissioner of Labor shall present their findings to the Joint Standing Committee on Appropriations and Financial Affairs, the Joint Standing Committee on Education and Cultural Affairs and the Joint Standing Committee on Labor, Commerce, Research and Economic Development along with a plan to apply the identified savings to support the positions identified in section 1.

**PART GGG**

**Sec. GGG-1. Health insurance premium payments for certain otherwise ineligible employees.** Notwithstanding any other provision of law, an employee who has less than 10 years of state service but who is otherwise eligible to retire under the Maine Public Employees Retirement System as a state employee, whose position is eliminated pursuant to

Part A, section 7 and who is unable to find employment in another position in state service is entitled to continued coverage under the state employee health insurance program under the Maine Revised Statutes, Title 5, section 285, and the State shall continue to pay that employee's premium. Such an employee, for the sole purpose of receiving retiree health insurance under the state employee health insurance program, is deemed to have retired from state service.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.

Effective April 24, 2012, unless otherwise indicated.

**CHAPTER 656  
S.P. 635 - L.D. 1835**

**An Act To Restore Equity in  
Revenue Sharing**

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

**Sec. 1. 30-A MRSA §5681, sub-§2, ¶E,** as amended by PL 2007, c. 662, §1, is further amended to read:

E. "Disproportionate tax burden" means the total real and personal property taxes assessed in the municipal fiscal year pertaining to the latest state valuation, except the taxes assessed on captured value within a tax increment financing district, divided by the latest state valuation certified to the Secretary of State and reduced by .01. Beginning on July 1, 2013 and each July 1st thereafter, if the total revenue-sharing distribution as calculated by subsection 5 is distributed to the municipalities without transfer or reduction, the reduction factor must be increased by either .0005 or the percentage increase necessary to equal the statewide average property tax rate, whichever increase is smaller, until the fiscal year when the percentage reduction factor reaches the statewide average property tax rate.

**Sec. 2. 30-A MRSA §5681, sub-§2, ¶F** is enacted to read:

F. "Statewide average property tax rate" means the total real and personal property taxes assessed in all municipalities in the municipal fiscal year pertaining to the latest state valuation, except the taxes assessed on captured value within a tax increment financing district, divided by the total lat-

est state valuation certified to the Secretary of State.

See title page for effective date.

**CHAPTER 657  
S.P. 600 - L.D. 1746**

**An Act To Make Supplemental  
Appropriations and Allocations  
for the Expenditures of State  
Government and To Change  
Certain Provisions of the Law  
Necessary to the Proper  
Operations of State  
Government for the Fiscal  
Year Ending June 30, 2013**

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

**PART A**

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

**ADMINISTRATIVE AND FINANCIAL  
SERVICES, DEPARTMENT OF**

**Revenue Services, Bureau of 0002**

Initiative: Provides funding for advertising and mailing costs to implement a use tax compliance program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$330,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$330,000</b>

**Revenue Services, Bureau of 0002**

Initiative: Provides funding to initiate an overtime project to enhance revenue discovery and revenue collections. The project will increase gross revenue from income and sales and use taxes by an estimated \$2,000,000 in fiscal year 2012-13.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$210,000
All Other	\$0	\$20,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$230,000</b>

**Solid Waste Management Fund 0659**

Initiative: Provides funding for the operation of the Dolby Landfill in the Town of East Millinocket.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$320,000

GENERAL FUND TOTAL	\$0	(\$224,577)
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GENERAL FUND TOTAL	\$0	\$320,000
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**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	\$880,000

**Developmental Services Waiver - MaineCare 0987**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of the 2012-2013 biennium.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$6,299,768

GENERAL FUND TOTAL	\$0	\$6,299,768
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<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$880,000</b>
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**Developmental Services Waiver - MaineCare 0987**

Initiative: Adjusts funding for Medicaid services as a result of the decrease of the Federal Medical Assistance Percentage.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$1,190,669

GENERAL FUND TOTAL	\$0	\$1,190,669
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**CONSERVATION, DEPARTMENT OF**

**Office of the Commissioner 0222**

Initiative: Reduces funding by eliminating one Commissioner of Conservation position. This initiative relates to the creation of the new Department of Agriculture, Conservation and Forestry.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$107,688)

GENERAL FUND TOTAL	\$0	(\$107,688)
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**Developmental Services Waiver - Supports Z006**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of the 2012-2013 biennium.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$5,658,034

GENERAL FUND TOTAL	\$0	\$5,658,034
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**CONSERVATION, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	(\$107,688)

<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$107,688)</b>
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**Developmental Services Waiver - Supports Z006**

Initiative: Adjusts funding for Medicaid services as a result of the decrease of the Federal Medical Assistance Percentage.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$91,346

GENERAL FUND TOTAL	\$0	\$91,346
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**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)**

**Developmental Services - Community 0122**

Initiative: Provides for the restructuring of the Department of Health and Human Services, Office of Elder and Adult Services and Office of Adults with Cognitive and Physical Disability Services.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(3.000)
Personal Services	\$0	(\$224,577)

**Developmental Services Waiver - Supports Z006**

Initiative: Provides funds to serve individuals on the waiting list for services under the MaineCare Benefits Manual, Chapter II, Section 29, Support Benefits for Adults with Intellectual Disabilities or Autistic Disorder.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$500,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$500,000</b>

**Disproportionate Share - Dorothea Dix Psychiatric Center 0734**

Initiative: Adjusts funding for Medicaid services as a result of the decrease of the Federal Medical Assistance Percentage.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$73,700
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$73,700</b>

**Disproportionate Share - Riverview Psychiatric Center 0733**

Initiative: Adjusts funding for Medicaid services as a result of the decrease of the Federal Medical Assistance Percentage.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$111,280
All Other	\$0	\$40,232
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$151,512</b>

**Dorothea Dix Psychiatric Center 0120**

Initiative: Adjusts funding for Medicaid services as a result of the decrease of the Federal Medical Assistance Percentage.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	(\$73,700)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$73,700)</b>

**FHM - Substance Abuse 0948**

Initiative: Adjusts funding for Medicaid services as a result of the decrease of the Federal Medical Assistance Percentage.

FUND FOR A HEALTHY MAINE	2011-12	2012-13
All Other	\$0	\$17,976
<b>FUND FOR A HEALTHY MAINE TOTAL</b>	<b>\$0</b>	<b>\$17,976</b>

**Medicaid Services - Developmental Services 0705**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of the 2012-2013 biennium.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$1,201,050
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$1,201,050</b>

**Medicaid Services - Developmental Services 0705**

Initiative: Adjusts funding for Medicaid services as a result of the decrease of the Federal Medical Assistance Percentage.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$592,079
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$592,079</b>

**Mental Health Services - Child Medicaid 0731**

Initiative: Reduces funding by eliminating optional coverage under the MaineCare program for persons 19 and 20 years of age with income less than or equal to 150% of the nonfarm income official poverty line.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$238,173)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$238,173)</b>

**Mental Health Services - Child Medicaid 0731**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of the 2012-2013 biennium.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$4,709,869
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$4,709,869</b>

**Mental Health Services - Child Medicaid 0731**

Initiative: Adjusts funding for Medicaid services as a result of the decrease of the Federal Medical Assistance Percentage.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$470,754
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$470,754</b>

**Mental Health Services - Children 0136**

Initiative: Reduces funding by reducing contracts for residential services.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,250,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,250,000)</b>

**Mental Health Services - Children 0136**

Initiative: Provides for the restructuring of the Department of Health and Human Services, Office of Child and Family Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(9.000)
Personal Services	\$0	(\$704,020)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$704,020)</b>

**Mental Health Services - Community 0121**

Initiative: Eliminates 17 Intensive Case Manager positions, 2 Mental Health Caseworker Supervisor positions, one Mental Health Worker III position and one Social Services Manager I position in the Mental Health Services - Community program and increases All Other funding to expand the department's Projects for Assistance in Transition from Homelessness program to a statewide model. The remaining savings will be used to contract for case management services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(21.000)
Personal Services	\$0	(\$1,041,182)
All Other	\$0	\$1,041,182
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$0</b>

**Mental Health Services - Community 0121**

Initiative: Provides for the restructuring of the Department of Health and Human Services, Office of Substance Abuse and Office of Adult Mental Health Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(4.000)
Personal Services	\$0	(\$216,208)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$216,208)</b>

**Mental Health Services - Community 0121**

Initiative: Reduces funding from a 6% reduction in mobile outreach crisis contracts.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$277,500)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$277,500)</b>

**Mental Health Services - Community Medicaid 0732**

Initiative: Reduces funding by eliminating optional coverage under the MaineCare program for persons 19 and 20 years of age with income less than or equal to 150% of the nonfarm income official poverty line.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$138,229)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$138,229)</b>

**Mental Health Services - Community Medicaid 0732**

Initiative: Adjusts funding for Medicaid services as a result of the decrease of the Federal Medical Assistance Percentage.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$614,409
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$614,409</b>

**Mental Health Services - Community Medicaid 0732**

Initiative: Reduces funding from savings from limiting MaineCare reimbursement for methadone for the treatment of addiction to opioids to a lifetime maximum of 24 months except as permitted with prior authorization beyond 24 months.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$491,407)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$491,407)</b>

**Office of Advocacy - BDS 0632**

Initiative: Eliminates one Public Service Manager II position and one part-time and 6 full-time Advocate positions to reflect the elimination of the Office of Advocacy and increases the current All Other appropriation of \$38,292 by \$291,763 in order to provide \$330,055 for a contract for advocacy services. This

request will reduce General Fund undedicated revenue by \$140,259.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(7.500)
Personal Services	\$0	(\$419,384)
All Other	\$0	\$291,763
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$127,621)</b>

**Office of Substance Abuse 0679**

Initiative: Provides for the restructuring of the Department of Health and Human Services, Office of Substance Abuse and Office of Adult Mental Health Services.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$15,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$15,000</b>

FEDERAL BLOCK GRANT FUND	2011-12	2012-13
Personal Services	\$0	\$5,907
<b>FEDERAL BLOCK GRANT FUND TOTAL</b>	<b>\$0</b>	<b>\$5,907</b>

**Office of Substance Abuse - Medicaid Seed 0844**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of the 2012-2013 biennium.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$869,928
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$869,928</b>

**Office of Substance Abuse - Medicaid Seed 0844**

Initiative: Adjusts funding for Medicaid services as a result of the decrease of the Federal Medical Assistance Percentage.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$53,748
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$53,748</b>

**Office of Substance Abuse - Medicaid Seed 0844**

Initiative: Reduces funding from savings from limiting MaineCare reimbursement for methadone for the treatment of addiction to opioids to a lifetime maximum of 24 months except as permitted with prior authorization beyond 24 months.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$141,733)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$141,733)</b>

**Riverview Psychiatric Center 0105**

Initiative: Adjusts funding for Medicaid services as a result of the decrease of the Federal Medical Assistance Percentage.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	(\$111,280)
All Other	\$0	(\$40,232)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$151,512)</b>

**Riverview Psychiatric Center 0105**

Initiative: Provides funding to offset a reduction in disproportionate share payments for individuals transferred from jails or prisons, for individuals for whom the court has ordered evaluations and for individuals determined to be incompetent to stand trial.

GENERAL FUND	2011-12	2012-13
Unallocated	\$0	\$3,176,972
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$3,176,972</b>

**Traumatic Brain Injury Seed Z042**

Initiative: Adjusts funding for Medicaid services as a result of the decrease of the Federal Medical Assistance Percentage.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$1,669
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$1,669</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS) DEPARTMENT TOTALS**

	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$21,861,039</b>

<b>FUND FOR A HEALTHY MAINE</b>	<b>\$0</b>	<b>\$17,976</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>(\$225,212)</b>
<b>FEDERAL BLOCK GRANT FUND</b>	<b>\$0</b>	<b>\$5,907</b>
<hr/>		
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$21,659,710</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

**Bureau of Child and Family Services - Central 0307**

Initiative: Provides for the restructuring of the Department of Health and Human Services, Office of Child and Family Services.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	35.000
Personal Services	\$0	\$774,988
All Other	\$0	\$1,151,783
<hr/>		
GENERAL FUND TOTAL	\$0	\$1,926,771

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(27.000)
Personal Services	\$0	(\$1,727,713)
All Other	\$0	(\$2,656,179)
<hr/>		
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$4,383,892)

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$1,479,798
All Other	\$0	(\$2,668,528)
<hr/>		
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$1,188,730)

**Bureau of Child and Family Services - Regional 0452**

Initiative: Provides for the restructuring of the Department of Health and Human Services, Office of Child and Family Services.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
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POSITIONS - LEGISLATIVE COUNT	0.000	16.000
Personal Services	\$0	(\$6,230,149)
All Other	\$0	\$432,191
<hr/>		
GENERAL FUND TOTAL	\$0	(\$5,797,958)

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$21,372)
<hr/>		
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$21,372)

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$7,322,251
All Other	\$0	\$975,406
<hr/>		
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$8,297,657

**Bureau of Medical Services 0129**

Initiative: Establishes 2 Public Service Coordinator I positions funded 50% General Fund and 50% Federal Expenditures Fund in the Bureau of Medical Services.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$83,362
All Other	\$0	\$5,000
<hr/>		
GENERAL FUND TOTAL	\$0	\$88,362

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	2.000
Personal Services	\$0	\$83,362
All Other	\$0	\$6,341
<hr/>		
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$89,703

**Bureau of Medical Services 0129**

Initiative: Provides funding for contract services and other administrative costs of the MaineCare Redesign Task Force established in this Act.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$250,000

GENERAL FUND TOTAL	\$0	\$250,000
<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$250,000
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$250,000

**Child Care Food Program 0454**

Initiative: Provides for the restructuring of the Department of Health and Human Services, Office of Child and Family Services.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(2.000)
Personal Services	\$0	(\$82,533)
All Other	\$0	(\$327)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$82,860)

**Child Care Services 0563**

Initiative: Provides for the restructuring of the Department of Health and Human Services, Office of Child and Family Services.

<b>FEDERAL BLOCK GRANT FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	7.000
Personal Services	\$0	(\$140,825)
All Other	\$0	\$41,647
FEDERAL BLOCK GRANT FUND TOTAL	\$0	(\$99,178)

**Child Support 0100**

Initiative: Establishes 8 Human Services Support Enforcement Agent positions funded 34% General Fund and 66% Federal Expenditures Fund in the Child Support program. The General Fund portion of the positions is funded by the additional undedicated revenue generated by these additional positions.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	\$174,240

All Other	\$0	\$15,000
GENERAL FUND TOTAL	\$0	\$189,240
<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	8.000
Personal Services	\$0	\$338,240
All Other	\$0	\$30,667
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$368,907

**Departmentwide 0640**

Initiative: Reduces funding from salary savings. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings in this Part that applies to each General Fund account in the Department of Health and Human Services and shall transfer the amounts by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2012-13.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$0	(\$1,000,000)
GENERAL FUND TOTAL	\$0	(\$1,000,000)

**FHM - Bureau of Health 0953**

Initiative: Reduces funding to reflect a redistribution of funding in the Fund for a Healthy Maine.

<b>FUND FOR A HEALTHY MAINE</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$5,718,328)
FUND FOR A HEALTHY MAINE TOTAL	\$0	(\$5,718,328)

**FHM - Drugs for the Elderly and Disabled Z015**

Initiative: Reduces funding from reducing income eligibility levels for the Medicare savings program.

<b>FUND FOR A HEALTHY MAINE</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$1,219,908)
FUND FOR A HEALTHY MAINE TOTAL	\$0	(\$1,219,908)

**FHM - Family Planning 0956**

Initiative: Reduces funding to reflect a redistribution of funding in the Fund for a Healthy Maine.

FUND FOR A HEALTHY MAINE	2011-12	2012-13
All Other	\$0	(\$401,430)
<b>FUND FOR A HEALTHY MAINE TOTAL</b>	<b>\$0</b>	<b>(\$401,430)</b>

**FHM - Medical Care 0960**

Initiative: Adjusts funding for Medicaid services as a result of the decrease in the Federal Medical Assistance Percentage.

FUND FOR A HEALTHY MAINE	2011-12	2012-13
All Other	\$0	\$113,010
<b>FUND FOR A HEALTHY MAINE TOTAL</b>	<b>\$0</b>	<b>\$113,010</b>

**FHM - Medical Care 0960**

Initiative: Notwithstanding any other provision of law, adjusts funding by increasing funding in the FHM - Medical Care program and decreasing funding in the Medical Care - Payments to Providers program to reflect a redistribution of funding within the Fund for a Healthy Maine.

FUND FOR A HEALTHY MAINE	2011-12	2012-13
All Other	\$0	\$9,876,575
<b>FUND FOR A HEALTHY MAINE TOTAL</b>	<b>\$0</b>	<b>\$9,876,575</b>

**FHM - Purchased Social Services 0961**

Initiative: Reduces funding to reflect a redistribution of funding in the Fund for a Healthy Maine.

FUND FOR A HEALTHY MAINE	2011-12	2012-13
All Other	\$0	(\$1,971,118)
<b>FUND FOR A HEALTHY MAINE TOTAL</b>	<b>\$0</b>	<b>(\$1,971,118)</b>

**General Assistance - Reimbursement to Cities and Towns 0130**

Initiative: Provides funding for general assistance benefits.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$4,297,699
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$4,297,699</b>

**General Assistance - Reimbursement to Cities and Towns 0130**

Initiative: Provides funding in the General Assistance - Reimbursement to Cities and Towns program to bring allocations into line with anticipated resources.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$449,846
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$449,846</b>

**General Assistance - Reimbursement to Cities and Towns 0130**

Initiative: Allocates funds for 7 limited-period Family Independence Specialist positions in the general assistance program and for other costs of the pilot program to maximize and expedite the award of federal Supplemental Security Income program benefits for recipients of general assistance and to identify and assist veterans who receive assistance through programs administered by the Office for Family Independence who may be eligible for federal Department of Veterans Affairs cash or medical assistance to access those benefits. These positions are established through June 15, 2014. This initiative is estimated to generate \$1,057,903 in 2012-13 in additional dedicated revenue for the general assistance program. Any dedicated revenue in addition to this estimated level must be used to offset the savings target of the general assistance working group established in this Act.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	\$469,104
All Other	\$0	\$976,874
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$1,445,978</b>

**Head Start 0545**

Initiative: Reduces funding for the Head Start program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$2,000,000)

GENERAL FUND TOTAL	\$0	(\$2,000,000)
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**IV-E Foster Care/Adoption Assistance 0137**

Initiative: Adjusts funding for Medicaid services as a result of the decrease in the Federal Medical Assistance Percentage.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$13,579
GENERAL FUND TOTAL	\$0	\$13,579

**IV-E Foster Care/Adoption Assistance 0137**

Initiative: Provides for the restructuring of the Department of Health and Human Services, Office of Child and Family Services.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$1,418,655
GENERAL FUND TOTAL	\$0	\$1,418,655

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$15,143,042)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$15,143,042)

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	(\$72,393)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$72,393)

**Low-cost Drugs To Maine's Elderly 0202**

Initiative: Reduces funding from reducing the upper income eligibility level for the Low-cost Drugs To Maine's Elderly program from 185% to 175% of the federal poverty level.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$112,154)
GENERAL FUND TOTAL	\$0	(\$112,154)

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding from reducing income eligibility for Medicaid services for a parent or a care-

taker relative of an eligible child from a maximum of 133% of the federal poverty level to 100%.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$5,866,833)
GENERAL FUND TOTAL	\$0	(\$5,866,833)

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$10,106,031)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$10,106,031)

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by eliminating optional coverage under the MaineCare program for persons 19 and 20 years of age with income less than or equal to 150% of the nonfarm income official poverty line.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$3,653,598)
GENERAL FUND TOTAL	\$0	(\$3,653,598)

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$6,941,958)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$6,941,958)

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by eliminating ambulatory surgical center services as an optional service in the MaineCare program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$77,697)
GENERAL FUND TOTAL	\$0	(\$77,697)

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$133,839)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$133,839)

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by eliminating sexually transmitted disease screening clinic services as an optional service in the MaineCare program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$163,463)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$163,463)</b>
FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$181,178)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$181,178)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of the 2012-2013 biennium.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$32,808,234
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$32,808,234</b>
FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	\$124,626,202
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$124,626,202</b>

**Medical Care - Payments to Providers 0147**

Initiative: Adjusts funding for Medicaid services as a result of the decrease in the Federal Medical Assistance Percentage.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$6,997,873
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$6,997,873</b>
FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$10,382,324)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$10,382,324)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by eliminating the reimbursement for smoking cessation products.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$179,095)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$179,095)</b>
FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$308,504)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$308,504)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Notwithstanding any other provisions of law, adjusts funding by increasing funding in the FHM - Medical Care program and decreasing funding in the Medical Care - Payments to Providers program to reflect a redistribution of funding within the Fund for a Healthy Maine.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$9,876,575)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$9,876,575)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding from savings from limiting MaineCare reimbursement for methadone for the treatment of addiction to opioids to a lifetime maximum of 24 months except as permitted with prior authorization beyond 24 months.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$730,977)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$730,977)</b>
FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$2,297,941)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$2,297,941)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding from savings from utilizing a crisis assessment in emergency departments and

savings from initiatives related to institutes for mental disease and psychiatric units in private hospitals.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$397,500)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$397,500)</b>
FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$684,722)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$684,722)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by requiring hospital-based primary care practices that also provide mental health services to participate in the Maine Health Access Foundation's integrated care initiative for outpatient mental health and primary care services effective July 1, 2012.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,500,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,500,000)</b>
FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$2,583,855)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$2,583,855)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Provides funding to offset the reduction made in PL 2011, c. 380, Part A that proposed to reduce reimbursement for outpatient substance abuse and mental health services to the MaineCare Benefits Manual, Chapter II, Section 65 rates.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$1,000,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$1,000,000</b>
FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	\$1,722,570

FEDERAL EXPENDITURES	\$0	\$1,722,570
<b>FUND TOTAL</b>		

**Medical Care - Payments to Providers 0147**

Initiative: Provides funds to serve individuals on the waiting list for services under the MaineCare Benefits Manual, Chapter II, Section 29, Support Benefits for Adults with Intellectual Disabilities or Autistic Disorder.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	\$861,285
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$861,285</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding from a reduction in MaineCare hospital crossover payments as a result of decreasing income eligibility levels for the Medicare savings program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,663,554)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$1,663,554)</b>
FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$2,865,588)
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>(\$2,865,588)</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding from savings from implementing the recommendations of the MaineCare Re-design Task Force established in this Act.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$5,250,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$5,250,000)</b>
FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$9,043,493)

FEDERAL EXPENDITURES	\$0	(\$9,043,493)
FUND TOTAL		

**MR/Elderly PNMI Room and Board Z009**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of the 2012-2013 biennium.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$8,210,778
GENERAL FUND TOTAL	\$0	\$8,210,778

**Nursing Facilities 0148**

Initiative: Provides funding in the MaineCare and MaineCare-related accounts necessary to make cycle payments through the remainder of the 2012-2013 biennium.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$7,036,142
GENERAL FUND TOTAL	\$0	\$7,036,142

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	\$11,852,830
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$11,852,830

**Nursing Facilities 0148**

Initiative: Adjusts funding for Medicaid services as a result of the decrease in the Federal Medical Assistance Percentage.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$1,538,014
GENERAL FUND TOTAL	\$0	\$1,538,014

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$1,538,014)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$1,538,014)

**Office of Elder Services Adult Protective Services Z040**

Initiative: Provides for the restructuring of the Department of Health and Human Services, Office of Elder and Adult Services and Office of Adults with Cognitive and Physical Disability Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	3.000
Personal Services	\$0	\$320,194
All Other	\$0	\$15,000
GENERAL FUND TOTAL	\$0	\$335,194

**Purchased Social Services 0228**

Initiative: Provides for the restructuring of the Department of Health and Human Services, Office of Child and Family Services.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$12,410
GENERAL FUND TOTAL	\$0	\$12,410

**State-funded Foster Care/Adoption Assistance 0139**

Initiative: Reduces funding by reducing contracts in the family reunification program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$1,249,500)
GENERAL FUND TOTAL	\$0	(\$1,249,500)

**State-funded Foster Care/Adoption Assistance 0139**

Initiative: Provides for the restructuring of the Department of Health and Human Services, Office of Child and Family Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(14.000)
Personal Services	\$0	(\$1,173,774)
All Other	\$0	\$3,276,335
GENERAL FUND TOTAL	\$0	\$2,102,561

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$19,803
All Other	\$0	\$386,872

FEDERAL EXPENDITURES FUND TOTAL	\$0	\$406,675
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OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	\$205,995
All Other	\$0	(\$5,652,788)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$5,446,793)

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS) DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$28,706,608
FEDERAL EXPENDITURES FUND	\$0	\$73,479,559
FUND FOR A HEALTHY MAINE	\$0	\$678,801
OTHER SPECIAL REVENUE FUNDS	\$0	\$3,485,565
FEDERAL BLOCK GRANT FUND	\$0	(\$99,178)
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$106,251,355

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

**Maine Commission on Indigent Legal Services Z112**

Initiative: Provides funding for representation to indigent persons who are entitled to counsel.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$450,000
GENERAL FUND TOTAL	\$0	\$450,000

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$450,000

DEPARTMENT TOTAL - ALL FUNDS	\$0	\$450,000
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**PUBLIC UTILITIES COMMISSION**

**Emergency Services Communication Bureau 0994**

Initiative: Provides funding to cover costs incurred as a result of the need to operate 2 systems for a period of time as E-9-1-1 operations transition between them.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$3,785,230
GENERAL FUND TOTAL	\$0	\$3,785,230

**PUBLIC UTILITIES COMMISSION DEPARTMENT TOTALS**

GENERAL FUND	2011-12	2012-13
GENERAL FUND	\$0	\$3,785,230
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$3,785,230

SECTION TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$55,575,189
FEDERAL EXPENDITURES FUND	\$0	\$73,479,559
FUND FOR A HEALTHY MAINE	\$0	\$696,777
OTHER SPECIAL REVENUE FUNDS	\$0	\$3,260,353
FEDERAL BLOCK GRANT FUND	\$0	(\$93,271)

SECTION TOTAL - ALL FUNDS	\$0	\$132,918,607
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**PART B**

**Sec. B-1. Transfer from available fiscal year 2012-13 Administrative Services - Professional and Financial Regulation, Other Special Revenue Funds balance to General Fund - Professional and Financial Regulation.** Notwithstanding any other provision of law, at the close of fiscal year 2012-13, the State Controller shall transfer \$1,500,000 from the available balance in the Administrative Services - Professional and Financial Regulation program, Other Special Revenue Funds account within the Department of Professional and Financial

Regulation to the General Fund unappropriated surplus.

### PART C

**Sec. C-1. PL 2011, c. 380, Pt. QQ, §§1 and 3** are amended to read:

**Sec. QQ-1. Transfer from unappropriated surplus at close of fiscal years 2011-12 and 2012-13.** Notwithstanding any other provision of law, at the close of fiscal year 2011-12 and fiscal year 2012-13, the State Controller shall transfer up to \$25,000,000 from the unappropriated surplus of the General Fund to the Department of Health and Human Services, Medical Care - Payments to Providers account in the General Fund after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made and as the first priority after the transfers required pursuant to the Maine Revised Statutes, Title 5, sections 1507, 1511 and 1522 and before the transfers required pursuant to Title 5, section 1536.

**Sec. QQ-3. Transfer considered adjustments to appropriations.** Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, amounts transferred pursuant to this Part are considered adjustments to appropriations ~~in fiscal year 2012-13 only~~. These funds may be allotted by financial order upon recommendation of the State Budget Officer and approval of the Governor.

**Sec. C-2. Transfer of excess revenue from Oxford Casino.** In fiscal year 2012-13 only, all funds credited pursuant to the Maine Revised Statutes, Title 8, section 1036, subsection 2-A, paragraph A and subsection 2-B, paragraph A to the Department of Education for essential programs and services for kindergarten to grade 12 under Title 20-A, chapter 606-B in excess of \$10,607,813 must be transferred to the Department of Health and Human Services, Medical Care - Payments to Providers Other Special Revenue Funds account to be expended for hospital settlements.

### PART D

**Sec. D-1. Transfer from unappropriated surplus; Maine Budget Stabilization Fund.** Notwithstanding any other provision of law, the State Controller shall transfer \$13,000,000 during fiscal year 2012-13 from the General Fund unappropriated surplus to the Maine Budget Stabilization Fund established in the Maine Revised Statutes, Title 5, chapter 142.

**Sec. D-2. Transfer for program funding shortfall.** Prior to the close of fiscal year 2012-13, if the Commissioner of Health and Human Services and the Commissioner of Administrative and Financial Services determine that the Riverview Psychiatric Center program, General Fund account in the Depart-

ment of Health and Human Services has insufficient resources as a result of a requirement to repay federal funds in that fiscal year, the commissioners may declare a budget emergency and the State Controller shall transfer from the available balance in the Maine Budget Stabilization Fund established in the Maine Revised Statutes, Title 5, chapter 142 to the Riverview Psychiatric Center program, General Fund account in the Department of Health and Human Services up to the amount of the resources necessary to repay the federal funds up to a maximum amount of \$7,360,045. Amounts transferred may be expended based on allotment established by financial order approved by the Governor. The amounts transferred are considered adjustments to appropriations. The Governor shall inform the Legislative Council and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs immediately upon such a transfer from the Maine Budget Stabilization Fund.

**Sec. D-3. Transfer for repayment of federal funds for ineligible MaineCare recipients.** Prior to the close of fiscal year 2012-13, if the Commissioner of Health and Human Services and the Commissioner of Administrative and Financial Services determine that the State must reimburse the federal Centers for Medicare and Medicaid Services for costs resulting from the payment of Medicaid funds for ineligible MaineCare recipients for services provided from September 1, 2010 through December 28, 2011, the commissioners may declare a budget emergency and the State Controller shall transfer up to \$3,791,770 from the available balance in the Maine Budget Stabilization Fund established in the Maine Revised Statutes, Title 5, chapter 142 to the Medical Care - Payments to Providers, Federal Expenditures Fund account within the Department of Health and Human Services for federal repayments related to the ineligible MaineCare recipients. Amounts transferred may be expended based on allotment established by financial order approved by the Governor. The Governor shall inform the Legislative Council and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs immediately upon such a transfer from the Maine Budget Stabilization Fund.

### PART E

**Sec. E-1. 8 MRSA §1036, sub-§2, ¶E**, as amended by PL 2011, c. 477, Pt. DD, §1, is further amended to read:

E. Ten percent of the net slot machine income must be forwarded by the board to the State Controller and except as otherwise provided in this paragraph credited to the Fund for a Healthy Maine established by Title 22, section 1511 and segregated into a separate account under Title 22, section 1511, subsection 11, with the use of funds

in the account restricted to the purposes described in Title 22, section 1511, subsection 6, paragraph E. For the fiscal years ending June 30, 2010, June 30, 2011 and June 30, 2012, the amount credited annually by the State Controller to the Fund for a Healthy Maine under this paragraph may not exceed \$4,500,000 annually and any funds in excess of \$4,500,000 annually during these fiscal years must be credited as General Fund undedicated revenue, and, for the fiscal year ending June 30, 2013, the amount credited by the State Controller to the Fund for a Healthy Maine under this paragraph is ~~\$2,500,000~~ \$0;

#### PART F

**Sec. F-1. 5 MRSA §1511**, as amended by PL 2005, c. 519, Pt. VV, §2, is further amended to read:

##### **§1511. Loan Insurance Reserve**

The State Controller may, at the close of each fiscal year, as the next priority after the transfers authorized pursuant to section 1507, transfer from the Unappropriated Surplus of the General Fund to the Loan Insurance Reserve amounts as may be available from time to time, up to an amount of \$1,000,000 per year after the transfers have been made pursuant to section 1507. The balance of this reserve must be paid to the Finance Authority of Maine if such payment does not cause the balance in the reserve fund maintained by the authority, when added to amounts held in the Finance Authority of Maine Mortgage Insurance Fund that are not committed or encumbered for another purpose, to exceed ~~\$35,000,000~~ \$40,000,000. Any balance in the Loan Insurance Reserve is appropriated for this purpose.

**Sec. F-2. PL 2011, c. 477, Pt. U, §1**, as amended by PL 2011, c. 575, Pt. B, §1, is further amended to read:

**Sec. U-1. Payments to State from Loan Insurance Reserve Fund.** Notwithstanding any other provision of law, the Finance Authority of Maine shall transfer \$2,000,000 from the Loan Insurance Reserve Fund to the State as undedicated General Fund revenue no later than June 30, 2012 and an additional ~~\$1,000,000~~ \$3,000,000 from the Loan Insurance Reserve Fund to the State as undedicated General Fund revenue no later than June 30, 2013.

#### PART G

**Sec. G-1. Implementation of reductions in Fund for a Healthy Maine funding for community school grants.** Notwithstanding any other provision of law, in implementing the reduction in Fund for a Healthy Maine funding in this Act for the FHM - Bureau of Health program, Community School Grants account, the Department of Health and Human Services may not reduce the number of Healthy Maine Partnerships coalitions established under the Maine

Revised Statutes, Title 22, section 412, subsection 2 from the one tribal and 26 geographic comprehensive community health coalitions that are approved for funding for fiscal year 2012-13 as of May 1, 2012 and are in compliance with the terms of their contracts, except as provided in this section. If the department determines that fewer Healthy Maine Partnerships coalitions are required, the department must seek and receive approval of a majority of the members of the Statewide Coordinating Council for Public Health established under Title 5, section 12004-G, subsection 14-G for a reduction in the number of coalitions.

#### PART H

**Sec. H-1. 22 MRSA §1714-D** is enacted to read:

##### **§1714-D. Critical access hospital reimbursement**

Beginning April 1, 2012, the department shall reimburse licensed critical access hospitals at 109% of MaineCare allowable costs for both inpatient and outpatient services provided to patients covered by the MaineCare program. Of the total allocated from hospital tax revenues under Title 36, chapter 375, \$1,000,000 in state and federal funds must be distributed annually among critical access hospitals for staff enhancement payments.

**Sec. H-2. 22 MRSA §3174-NN**, as enacted by PL 2009, c. 213, Pt. CC, §5, is repealed.

**Sec. H-3. 22 MRSA §3174-OO**, as enacted by PL 2009, c. 213, Pt. CC, §6, is repealed.

**Sec. H-4. Rules for hospital reimbursement.** By September 1, 2012, the Department of Health and Human Services shall adopt rules to implement hospital reimbursement under this Part. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

**Sec. H-5. Retroactivity.** This Part applies retroactively to April 1, 2012.

#### PART I

**Sec. I-1. 5 MRSA §17001, sub-§19, ¶¶E and F**, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

E. Any entity participating in the retirement system before January 1, 1976; ~~or~~

F. Any educational institution in the State teaching courses equivalent to or higher than secondary institutions; ~~or~~

**Sec. I-2. 5 MRSA §17001, sub-§19, ¶G** is enacted to read:

G. Any public charter school, as authorized by Title 20-A, chapter 112.

**Sec. I-3. 5 MRSA §17001, sub-§30, ¶B,** as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

B. "Public school" does not include:

- (1) Maine Wesleyan Seminary and College, commonly known as Kents Hill School, as of September 23, 1971;
- (2) Bridgton Academy, as of September 1, 1979;
- (3) Gould Academy, as of September 1, 1979; ~~and~~
- (4) North Yarmouth Academy, as of September 1, 1979; ~~and~~
- (5) Public charter schools, as authorized by Title 20-A, chapter 112.

#### PART J

**Sec. J-1. Development of proposed legislation for new retirement benefit plan for state employees and teachers.** The Maine Public Employees Retirement System, referred to in this section as "the system," shall develop proposed legislation to implement the combination defined benefit and defined contribution retirement plan selected pursuant to Public Law 2011, chapter 380, Part U, and described in the "New Pension Plan Design and Implementation Plan" report dated March 2012 that was submitted to the Joint Standing Committee on Appropriations and Financial Affairs in accordance with Public Law 2011, chapter 380, Part U, section 2. The system may request assistance from the Legislative Council in drafting the legislation. No later than January 15, 2013, the system shall submit the proposed legislation to the joint standing committee of the Legislature having jurisdiction over state employee and teacher retirement matters. After receipt and review of the suggested legislation, the joint standing committee of the Legislature having jurisdiction over state employee and teacher retirement matters may submit a bill to the First Regular Session of the 126th Legislature to implement a new retirement plan.

**Sec. J-2. Additional supporting work.** Upon submission of the proposed legislation pursuant to section 1, the Maine Public Employees Retirement System, at the request of the joint standing committee of the Legislature having jurisdiction over state employee and teacher retirement matters, shall present sufficient details concerning each component of the proposed combination defined benefit and defined contribution retirement plan as necessary to build a benefit and cost structure, evaluate investment alternatives, implement a program for outreach to members, provide an estimate of associated administrative costs, evaluate legal considerations, including the form of plan documents, and address other policy considerations including costs.

**Sec. J-3. Working group assistance.** In order to provide assistance in preparing the proposed legislation pursuant to section 1 and the supporting details pursuant to section 2, the Executive Director of the Maine Public Employees Retirement System may convene a working group composed of the members of the working group that was established pursuant to Public Law 2011, chapter 380, Part U.

#### PART K

**Sec. K-1. Transfer; unexpended funds; Ground Water Oil Clean-up Fund account.** Notwithstanding any other provision of law, the State Controller shall transfer \$250,000 in unexpended funds from the Ground Water Oil Clean-up Fund, Other Special Revenue Funds account in the Department of Environmental Protection to General Fund unappropriated surplus at the close of fiscal year 2012-13.

#### PART L

**Sec. L-1. Emergency rule-making authority; health and human services matters.** The Department of Health and Human Services is authorized to adopt emergency rules on or before June 30, 2013 under the Maine Revised Statutes, Title 5, sections 8054 and 8073 in order to implement those provisions of this Act over which the department has subject matter jurisdiction for which specific authority has not been provided in any other part of this Act. Notwithstanding Title 5, section 8054, subsections 1 and 2, the Department of Health and Human Services is not required to find that immediate adoption is necessary to avoid a threat to public health, safety or general welfare.

#### PART M

**Sec. M-1. 36 MRSA §5122, sub-§2, ¶LL** is enacted to read:

LL. To the extent included in federal adjusted gross income, an amount equal to military compensation earned for service pursuant to written military orders during the taxable year not performed in this State. For the purposes of this paragraph, "military compensation" means active duty pay received as a result of service in the active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard, including active state service as defined in Title 37-B, section 101-A, subsection 1.

**Sec. M-2. Application.** This Part applies to tax years beginning on or after January 1, 2014.

#### PART N

**Sec. N-1. 36 MRSA §1760, sub-§7-B,** as amended by PL 2009, c. 422, §1, is further amended to read:

**7-B. Products used in commercial agricultural production.** Sales of seed, fertilizers, defoliant and pesticides, including, but not limited to, rodenticides, insecticides, fungicides and weed killers, for use in the commercial agricultural production of an agricultural or silvicultural crop as defined in section 2013, subsection 1, paragraph A.

**Sec. N-2. 36 MRSA §2013**, as amended by PL 2011, c. 285, §8 and affected by §15 and amended by c. 380, Pt. EEEE, §§1 and 2 and affected by §3, is further amended to read:

**§2013. Refund of sales tax on depreciable machinery and equipment purchases**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following words have the following meanings.

A. "Commercial agricultural production" means commercial production of crops ~~for human and animal consumption, including the commercial production of sod, an agricultural composting operation as defined in Title 7, section 152, subsection 1, the commercial production of seed to be used primarily to raise crops for nourishment of humans or animals and the production of livestock, including the removal and storage of manure from that livestock, plants, trees, compost and livestock.~~

A-1. "Commercial aquacultural production" means the commercial production of cultured fish, shellfish, seaweed or other marine plants for human and animal consumption, including:

- (1) All cultivating activities occurring at hatcheries or nurseries, from the egg, larval or spore stages to the transfer of the product to a growing site; and
- (2) All cultivating activities occurring on water, from the receipt of fish, shellfish, seaweed or other marine plants from onshore facilities to the delivery of harvested products to onshore facilities for processing.

B. "Commercial fishing" means attempting to catch fish or any other marine animals or organisms with the intent of disposing of them for profit or trade in commercial channels and does not include subsistence fishing for personal use, sport fishing or charter boat fishing where the vessel is used for carrying sport anglers to available fishing grounds.

B-1. "Commercial wood harvesting" means the commercial severance and yarding of trees for sale or for processing into logs, pulpwood, bolt wood, wood chips, stud wood, poles, pilings, biomass or fuel wood or other products commonly known as forest products.

C. "Depreciable machinery and equipment" means, except as otherwise provided by this paragraph, that part of the following machinery and equipment for which depreciation is allowable under the Code and repair parts for that machinery and equipment:

(1) New or used machinery and equipment for use directly and primarily in commercial agricultural production, including self-propelled vehicles, ~~but excluding motor vehicles as defined in section 1752, subsection 7;~~ attachments and equipment for the production of field and orchard crops; new or used machinery and equipment for use directly and primarily in production of milk, animal husbandry and production of livestock, including poultry; new or used machinery and equipment used in the removal and storage of manure; and new or used machinery and equipment not used directly and primarily in commercial agricultural production, but used to transport potatoes from a truck into a storage location;

(2) New or used watercraft, nets, traps, cables, tackle and related equipment necessary to and used directly and primarily in ~~the operation of a commercial fishing venture, but excluding motor vehicles as defined in section 1752, subsection 7; or~~

(3) New or used watercraft, machinery or equipment used directly and primarily for commercial aquacultural production, including, but not limited to: nets; ropes; cables; anchors and anchor weights; shackles and other hardware; buoys; fish tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating systems; boilers and related pumping systems; diving equipment; feeders and related equipment; power-generating equipment; tank water-level sensors; above-ground piping; water-oxygenating systems; fish-grading equipment; safety equipment; and sea cage systems, including walkways and frames, lights, netting, buoys, shackles, ropes, cables, anchors and anchor weights; ~~but excluding motor vehicles as defined in section 1752, subsection 7; and~~

(4) New or used machinery and equipment for use directly and primarily in commercial wood harvesting, including, but not limited to, chain saws, skidders, delimiters, forwarders, slashers, feller bunchers and wood chippers.

"Depreciable machinery and equipment" does not include a motor vehicle as defined in section 1752, subsection 7 or a trailer as defined in section 1752, subsection 19-A.

**2. Refund authorized.** Any person, association of persons, firm or corporation that purchases electricity, or that purchases or leases depreciable machinery or equipment, for use in commercial agricultural production, commercial fishing ~~or~~, commercial aquacultural production or commercial wood harvesting or that purchases fuel for use in a commercial fishing vessel must be refunded the amount of sales tax paid upon presenting to the State Tax Assessor evidence that the purchase is eligible for refund under this section.

Evidence required by the assessor may include a copy or copies of that portion of the purchaser's or lessee's most recent filing under the United States Internal Revenue Code that indicates that the purchaser or lessee is engaged in commercial agricultural production, commercial fishing ~~or~~, commercial aquacultural production or commercial wood harvesting and that the purchased machinery or equipment is depreciable for those purposes or would be depreciable for those purposes if owned by the lessee.

In the event that any piece of machinery or equipment is only partially depreciable under the United States Internal Revenue Code, any reimbursement of the sales tax must be prorated accordingly. In the event that electricity or fuel for a commercial fishing vessel is used in qualifying and nonqualifying activities, any reimbursement of the sales tax must be prorated accordingly.

Application for refunds must be filed with the assessor within 36 months of the date of purchase or execution of the lease.

**3. Purchases made free of tax with certificate.** Sales tax need not be paid on the purchase of electricity, fuel for a commercial fishing vessel or a single item of machinery or equipment if the purchaser has obtained a certificate from the assessor stating that the purchaser is engaged in commercial agricultural production, commercial fishing ~~or~~, commercial aquacultural production or commercial wood harvesting and authorizing the purchaser to purchase electricity, fuel for a commercial fishing vessel or depreciable machinery and equipment without paying Maine sales tax. The seller is required to obtain a copy of the certificate together with an affidavit as prescribed by the assessor, to be maintained in the seller's records, attesting to the qualification of the purchase for exemption pursuant to this section. In order to qualify for this exemption, the electricity, fuel for a commercial fishing vessel or depreciable machinery or equipment must be used directly in commercial agricultural production, commercial fishing ~~or~~, commercial aquacultural production or commercial wood harvesting. In order to qualify for this exemption, the electricity or fuel for a commercial fishing vessel must be used in qualifying activities, including support operations.

**4. Information on processes for refunds and appeals.** The assessor shall post information describing the process for requesting a refund under this section on the bureau's publicly accessible website along with a description of the process to appeal a denial of refund request.

**Sec. N-3. Application.** Those sections of this Part that amend the Maine Revised Statutes, Title 36, section 1760, subsection 7-B and section 2013 apply to purchases made on or after July 1, 2013.

## PART O

**Sec. O-1. 22 MRSA §3174-TT**, as enacted by PL 2011, c. 477, Pt. O, §1, is repealed.

**Sec. O-2. 22 MRSA §3174-UU** is enacted to read:

### **§3174-UU. Reimbursement for opioid drugs for the treatment of pain**

This section applies to reimbursement under the MaineCare program for opioid drugs for the treatment of pain.

**1. Treatment of a new onset of acute pain.** The department shall establish limits for MaineCare reimbursement of opioid drugs that are prescribed as medically necessary in response to a new onset of acute pain. The limits established may not exceed 45 days per year without prior authorization. In order to qualify for reimbursement under this subsection, a prescription may not provide for more than 15 days of medication and requires a face-to-face visit between the prescriber and the MaineCare member. Notwithstanding the provisions of this subsection, the department shall limit to a period of 60 days following the surgical procedure MaineCare reimbursement for opioid drugs prescribed following a surgical procedure for which the medical standard of care includes the use of opioids. A MaineCare member who suffers from intractable pain and for whom opioid drugs are medically necessary beyond the limits set by this subsection may qualify for opioid drugs under subsection 2 as treatment for long-term chronic pain.

**2. Treatment of long-term chronic pain.** Reimbursement for opioid drugs beyond the limit set in subsection 1 is allowed by prior authorization if the MaineCare member participates in one or more alternative intervention treatments established by the department through rulemaking.

In order to qualify for reimbursement for opioid drugs under this subsection, the MaineCare member must:

A. Have failed to have an adequate response to the prescribed alternative intervention treatment;

B. Have completed the prescribed alternative intervention treatment in accordance with the guidelines and show signs of regression; or

C. Have completed at least 50% of the prescribed alternative intervention treatment under this subsection, after which the prescriber recommends that adequate control of pain will not be obtained under the alternative intervention treatment.

The department shall limit reimbursement for opioids for a MaineCare member who fails to have an adequate response to the prescribed alternative intervention treatment, subject to exception based on medical necessity. The department may include in rulemaking the establishment of a daily dosing limit, subject to exception.

The department may waive the requirement of an alternative intervention treatment through prior authorization when participation is not feasible and opioid treatment is medically necessary.

The department may allow a MaineCare member who is participating in a course of treatment recommended by a prescriber, including alternatives, in accordance with rules adopted by the department to obtain a prior authorization for physical therapy in excess of 2 visits to a maximum of 6 visits.

**3. Second opinion.** In order for a prescription to qualify for reimbursement under this section, prior to prescribing an opioid drug for a MaineCare member who suffers from one of the medical diagnoses known typically to have a poor response to opioid drugs, a prescriber shall obtain an evaluation from a prescriber from outside the practice of the prescriber.

**4. Current use.** The department may delay until January 1, 2013 the application of this section to the reimbursement for opioid drugs for MaineCare members who have been receiving such treatment consistently for 6 months or longer on the effective date of this section. The department may require the development of a protocol for proper, safe and effective tapering from opioid use when appropriate and may adopt exceptions to the requirements of this section based on diagnosis or condition or on the basis of daily doses.

**5. Collaboration.** The department shall seek input from pain specialists, addiction medicine specialists and members of the department's physician advisory committee in the development of rules governing this section.

**6. Morphine equivalent dose.** The department may establish and utilize a total daily morphine equivalent dose calculation when developing rules to implement this section.

**7. Exceptions.** This section does not apply to reimbursement for opioid drugs for the following MaineCare members as specified in rules adopted by the department:

A. A MaineCare member who is receiving opioid drugs for symptoms related to HIV, AIDS, cancer

and certain other qualifying diseases and conditions, as established by department rule;

B. A MaineCare member who is receiving opioid drugs during inpatient treatment in a hospital or during hospice care;

C. A MaineCare member who is receiving opioid drugs at certain qualifying low doses, as established by department rule; and

D. A MaineCare member for whom MaineCare reimbursement for opioid drugs for the treatment of addiction is restricted by limits applicable to methadone and buprenorphine and naloxone combination drugs.

**8. Rules.** The department shall adopt rules to implement this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. O-3. 22 MRSA §7250, sub-§4, ¶G,** as amended by PL 2011, c. 218, §2, is further amended to read:

G. The office that administers the MaineCare program pursuant to chapter 855 for the purposes of managing the care of its members, monitoring the purchase of controlled substances by its members and, avoiding duplicate dispensing of controlled substances and providing treatment pattern data under subsection 6; and

**Sec. O-4. 22 MRSA §7250, sub-§6** is enacted to read:

**6. Treatment pattern data.** The department may provide to a prescriber who treats a member under the MaineCare program prescription monitoring information on the prescriber and other prescribers that is de-identified as to prescriber and patient and that indicates treatment patterns in comparison among peers. If the department has shared with a prescriber treatment pattern data under this subsection, the department shall allow the prescriber time to align the prescriber's prescribing patterns with the patterns of the peers of the prescriber. The department may take appropriate actions with regard to a prescriber who is unable to achieve treatment pattern alignment as provided in this subsection.

## PART P

**Sec. P-1. 36 MRSA §5219-HH, sub-§1, ¶J,** as enacted by PL 2011, c. 548, §33 is amended to read:

J. "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business made after September 28, 2011. ~~With~~ Except as otherwise provided in this paragraph with respect to any one qualified active low-income community business, the maximum amount of qualified low-income community in-

vestments that may be made in the business, on a collective basis with all of its affiliates, with the proceeds of qualified equity investments that have been certified under Title 10, section 1100-Z, subsection 3, paragraph G is \$10,000,000 whether made by one or several qualified community development entities. With respect to investments in a qualified active low-income community business that is a manufacturing or value-added production enterprise that projects to create or retain more than 200 jobs, the limit on the qualified low-income community investment is \$40,000,000.

## PART Q

Sec. Q-1. 36 MRSA c. 914-D is enacted to read:

### CHAPTER 914-D

#### 2012 MAINE USE TAX COMPLIANCE PROGRAM

##### §6611. Program established

The 2012 Maine Use Tax Compliance Program, referred to in this chapter as "the program," is established to encourage delinquent taxpayers to comply with the provisions of chapter 215, to enable the State Tax Assessor to identify and collect previously unreported use tax and to improve compliance with the State's use tax laws. The program applies to use tax liabilities incurred by a person prior to January 1, 2012.

##### §6612. Definitions

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

1. Lookback period. "Lookback period" means the period from January 1, 2006 to December 31, 2011.

2. Program period. "Program period" means the period from October 1, 2012 to November 30, 2012.

##### §6613. Administration; conditions for participation

The State Tax Assessor shall administer the program. Participation in the program is conditioned upon each participating taxpayer's agreement to forgo the right to protest or pursue an administrative or judicial proceeding with regard to use taxes paid under the program. A participating taxpayer that timely submits the special use tax return as required by subsection 2 with no material misrepresentations or material omissions and that timely makes the use tax payment or payments required by subsection 3 is absolved from further liability for use taxes incurred prior to January 1, 2012 and is also absolved from liability for criminal prosecution and civil penalties related to those taxes. The following conditions apply to the program.

1. Limited to unknown liabilities. The program is limited to unknown liabilities only. For purposes of this subsection, "unknown liability" means a use tax liability that has not been assessed at the time the special use tax return described in section 6614 is received by the assessor.

2. Return filed and tax liability reported. A participating taxpayer must properly complete and file with the assessor, before the end of the program period, a special use tax return as described in section 6614 reporting all previously unreported and unpaid State of Maine use tax liabilities incurred by the taxpayer during the lookback period.

3. Tax paid; 3 high years. A participating taxpayer must pay in full, by the end of the program period or the approved payment plan period as provided in accordance with subsection 4, the use tax liability incurred by the taxpayer during the 3 calendar years of the lookback period with the highest use tax liability as reported on the special use tax return described in section 6614, plus any interest associated with an approved payment plan. A participating taxpayer must agree to forgo the right to seek a refund of, or file a petition for reconsideration with respect to, the tax paid with the return.

4. Payment plans allowed; interest. A participating taxpayer may elect to make payment of the taxes reported under the program after the expiration of the program period, but only pursuant to a payment plan approved by the assessor. A payment plan approved by the assessor may not provide for payments beyond May 31, 2013. Interest at the rate established pursuant to section 186 accrues on any payments made after the expiration of the program period.

##### §6614. Program return

The State Tax Assessor shall prepare and make available special use tax returns for taxpayers who wish to participate in the program. The return must be signed by the taxpayer under penalty of perjury. The return and associated program guidelines prepared by the assessor are not rules within the meaning of that term in the Maine Administrative Procedure Act. The assessor shall deny any special use tax return that is inconsistent with the provisions of this chapter or that is filed after the conclusion of the program period.

##### §6615. Undisclosed and future use tax liabilities; other settlements

This chapter may not be construed to prohibit the State Tax Assessor from instituting civil or criminal proceedings, including but not limited to an audit, against any taxpayer with respect to any amount of use tax incurred during or after the lookback period that is not disclosed on either the special use tax return filed by the taxpayer in connection with the program or another return filed by the taxpayer with the assessor. This chapter may not be construed to limit a taxpayer's

right to protest or pursue an administrative or judicial proceeding with regard to an assessment of such undisclosed taxes. Notwithstanding any other provision of law, the assessor may, prior to October 1, 2012, compromise an unknown use tax liability on terms substantially equal to the terms set forth in this chapter, and in such a case the taxpayer is absolved from liability for criminal prosecution and civil penalties related to those taxes.

### PART R

**Sec. R-1. 36 MRSA §5122, sub-§2, ¶M,** as amended by PL 2005, c. 218, §53, is further amended to read:

M. For each individual who is a primary recipient of pension benefits under an employee retirement plan, an amount that is the lesser of:

- (1) Six thousand dollars reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0. The reduction does not apply to benefits paid under a military retirement plan; or
- (2) The aggregate of pension benefits under employee retirement plans included in the individual's federal adjusted gross income.

For purposes of this paragraph, the following terms have the following meanings. "Primary recipient" means the individual upon whose earnings the employee retirement plan benefits are based or the surviving spouse of that individual. "Pension benefits" means employee retirement plan benefits reported as pension or annuity income for federal income tax purposes. "Employee retirement plan" means a state, federal or military retirement plan or any other retirement benefit plan established and maintained by an employer for the benefit of its employees under the Code, Section 401(a), Section 403 or Section 457(b), except that distributions made pursuant to a Section 457(b) plan are not eligible for the deduction provided by this paragraph if they are made prior to age 55 and are not part of a series of substantially equal periodic payments made for the life of the primary recipient or the joint lives of the primary recipient and that recipient's designated beneficiary. "Employee retirement plan" does not include an individual retirement account under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a rollover individual retirement account, a simplified employee pension under Section 408(k) of the Code or an ineligible deferred compensation plan under Section 457(f) of the Code. Pension benefits under an employee retirement plan do not include distributions that are subject to the tax imposed by the Code, Section 72(t). "Military retirement plan" means bene-

fits received as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard;

This paragraph does not apply to tax years beginning on or after January 1, 2014.

**Sec. R-2. 36 MRSA §5122, sub-§2, ¶M-1** is enacted to read:

M-1. For tax years beginning on or after January 1, 2014, for each individual who is a primary recipient of retirement plan benefits under an employee retirement plan or an individual retirement account, an amount that is the lesser of the aggregate of retirement plan benefits under employee retirement plans or individual retirement accounts included in the individual's federal adjusted gross income and the pension deduction amount reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0. The social security benefits and railroad retirement benefits reduction does not apply to benefits paid under a military retirement plan.

For purposes of this paragraph, the following terms have the following meanings.

(1) "Employee retirement plan" means a state, federal or military retirement plan or any other retirement benefit plan established and maintained by an employer for the benefit of its employees under the Code, Section 401(a), Section 403 or Section 457(b), except that distributions made pursuant to a Section 457(b) plan are not eligible for the deduction provided by this paragraph if they are made prior to age 55 and are not part of a series of substantially equal periodic payments made for the life of the primary recipient or the joint lives of the primary recipient and that recipient's designated beneficiary.

(2) "Individual retirement account" means an individual retirement account under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a simplified employee pension under Section 408(k) of the Code or a simple retirement account for employees under Section 408(p) of the Code.

(3) "Military retirement plan" means benefits received as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard.

(4) "Pension deduction amount" means \$10,000 for tax years beginning on or after January 1, 2014.

(5) "Primary recipient" means the individual upon whose earnings or contributions the re-

irement plan benefits are based on the surviving spouse of that individual.

(6) "Retirement plan benefits" means employee retirement plan benefits, except pick-up contributions for which a subtraction is allowed under paragraph E, reported as pension or annuity income for federal income tax purposes and individual retirement account benefits reported as individual retirement account distributions for federal income tax purposes. "Retirement plan benefits" does not include distributions that are subject to the tax imposed by the Code, Section 72(t);

**Sec. R-3. Application.** That section of this Part that enacts the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraph M-1 applies to tax years beginning on or after January 1, 2014.

### PART S

**Sec. S-1. 22 MRSA §3174-UU** is enacted to read:

**§3174-UU. Methadone reimbursement limitations**

Effective January 1, 2013, reimbursement under the MaineCare program for methadone for the treatment of addiction to opiates as defined in Title 17-A, section 1101, subsection 7 is limited to a lifetime maximum of 24 months, except that reimbursement may be provided for longer than 24 months if prior authorization is received from the department.

The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Prior to adopting rules under this section, the department shall seek input from stakeholders and experts in the field of substance abuse addiction and recovery, including, but not limited to, representatives of the Office of Substance Abuse and individuals with expertise in medication-assisted treatment.

### PART T

**Sec. T-1. MaineCare Redesign Task Force established.** The Commissioner of Health and Human Services shall establish the MaineCare Redesign Task Force, referred to in this Part as "the task force," to provide detailed information that will enable the Legislature to redesign the MaineCare program in a manner that will maintain high-quality, cost-effective services to populations in need of health coverage, comply with the requirements of the federal Patient Protection and Affordable Care Act of 2010 for state Medicaid programs and realize General Fund savings in fiscal year 2012-13 of \$5,250,000.

**Sec. T-2. Task force membership.** Notwithstanding Joint Rule 353, the task force consists of the Commissioner of Health and Human Services or the

commissioner's designee, who serves as chair of the task force, and the following 8 members who are appointed by the commissioner:

1. Two members of the MaineCare Advisory Committee, established pursuant to rule of the Department of Health and Human Services, who represent MaineCare members;

2. Two members of the MaineCare Advisory Committee, established pursuant to rule of the Department of Health and Human Services, who represent providers of MaineCare services;

3. One member of the public who has expertise in public health care policy;

4. One member of the public who has expertise in public health care financing;

5. One member of the public who has expertise in state fiscal policy; and

6. One member of the public who has expertise in economic policy.

**Sec. T-3. Convening of task force.** The task force shall convene no later than September 1, 2012.

**Sec. T-4. Duties.** The task force shall undertake a comprehensive review of the MaineCare program established pursuant to the Maine Revised Statutes, Title 22, chapter 855. The task force shall report on the following issues with regard to the MaineCare program:

1. Current eligibility levels, options for eligibility levels and changes to eligibility levels, including any changes that will be required pursuant to the federal Patient Protection and Affordable Care Act of 2010;

2. Current benefits, options for benefits and any changes to benefits, including any changes that will be required pursuant to the federal Patient Protection and Affordable Care Act of 2010;

3. Current premiums, cost-sharing and participation requirements, options for premiums, cost-sharing and participation requirements and any changes to premiums, cost-sharing and participation requirements, including any changes that will be required pursuant to the federal Patient Protection and Affordable Care Act of 2010;

4. The current fiscal status of the MaineCare program, including an analysis of MaineCare spending for the most recent 4 fiscal years and for the current biennium, with spending analysis detail provided by provider type, by eligibility level and by funding source;

5. Current management and administrative strategies and options for management and administrative strategies, including managed care, management of high-cost care and high-cost utilization, prior authorization, accountable care organizations, value-based

purchasing and contracted and in-house administrative services;

6. A review of initiatives being used in other states' Medicaid programs to deliver high-quality services in a manner that is fiscally sustainable and cost-effective; and

7. Recommendations for redesign of the MaineCare program to achieve General Fund savings of \$5,250,000 during fiscal year 2012-13 and annually thereafter, including detailed information on any required state plan amendments, applications and amendments to Medicaid waivers and amendments to state law and rule that would be required to implement the redesign and achieve the savings. The recommendations must include draft amendments to state law and rule to implement the redesign of MaineCare.

**Sec. T-5. Staffing; consultant services.** The Department of Health and Human Services shall provide necessary staffing services to the task force from its personnel. The department may contract for staffing services to supplement the work of departmental personnel. The department shall contract for professional services to research and prepare all necessary Medicaid state plan amendments and waiver applications and amendments that will be required to implement the redesign of MaineCare under section 4 once the redesign is approved by the Legislature under section 7. The contract for professional services must include, after action on the recommendations by the Legislature, final preparation, submission and services necessary to the approval process of all Medicaid state plan amendments and waiver application and amendments.

**Sec. T-6. Report.** The task force shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters as follows.

1. By November 15, 2012, the task force shall report on issues detailed in section 4.

2. By January 1, 2013 and by the first of each month thereafter until final federal action has been completed, the task force shall file information regarding progress in the preparation of the Medicaid state plan amendments and waiver applications and amendments.

**Sec. T-7. Implementation; achievement of savings.** If, after receipt of the recommendations presented by the task force pursuant to section 6, subsection 1, the Legislature fails to enact legislation in the First Regular Session of the 126th Legislature that achieves \$5,250,000 in General Fund savings in fiscal year 2012-13, the Commissioner of Health and Human Services shall make recommendations to the Governor regarding the achievement of the balance of these sav-

ings through the use of the temporary curtailment of allotment power specified in the Maine Revised Statutes, Title 5, section 1668, and the Governor is authorized to achieve those savings using that power.

## PART U

**Sec. U-1. Department of Health and Human Services; MaineCare development of a global waiver.** The Department of Health and Human Services shall develop a global Medicaid waiver in accordance with Section 1115 of the United States Social Security Act, 42 United States Code, Section 1315, to supersede all existing MaineCare waivers, the intent of which is to allow the State greater flexibility to manage programs more efficiently, to cap total MaineCare spending, to implement effective member cost sharing and to use innovative payment reform opportunities to support high-quality, efficient health care delivery.

**Sec. U-2. Legislative review of the Medicaid global waiver.** By October 1, 2012, the Commissioner of Health and Human Services shall submit the proposed Medicaid global waiver prepared pursuant to section 1 of this Part for review to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services.

**Sec. U-3. Submission of a resolve to the 126th Legislature.** By January 15, 2013, the Commissioner of Health and Human Services shall submit a resolve containing the proposed Medicaid global waiver prepared under this Part for approval by the 126th Legislature.

## PART V

**Sec. V-1.** 7-A MRSA is enacted to read:

### TITLE 7-A

### AGRICULTURE, CONSERVATION AND FORESTRY

#### SUBTITLE 1

#### DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

#### CHAPTER 1

#### DEPARTMENTAL ORGANIZATION AND OPERATION

#### SUBCHAPTER 1

#### GENERAL PROVISIONS

#### §101. Definitions

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

**1. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry.

**2. Department.** "Department" means the Department of Agriculture, Conservation and Forestry.

**3. Seal.** The department has an official seal, which must be judicially noticed.

## **SUBCHAPTER 2** **ORGANIZATION**

### **§201. Department**

**1. Establishment.** The Department of Agriculture, Conservation and Forestry is established as a cabinet-level department.

**2. Divisions.** The department consists of the divisions necessary to carry out the work of the department.

### **§202. Mission; guiding principles**

**1. Mission.** The mission of the department is to serve as the steward of Maine's agricultural, forestry, water and land resources for the State.

**2. Guiding principles.** The following principles are adopted to guide the department in the performance of its duties:

A. Forestry, farming, conservation, public lands and other natural resource-based economic activity are important to the State's economy and quality of life; and

B. Strengthening farming, forestry, conservation, recreation, state parks, public lands and public access to the State's natural resources is vital to enhancing the State's natural resources economy.

### **§203. Commissioner**

The department is under the control and supervision of the Commissioner of Agriculture, Conservation and Forestry, who reports directly to the Governor.

**1. Appointment.** The Governor shall appoint the commissioner, subject to review by the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters and confirmation by the Senate. The commissioner serves at the pleasure of the Governor.

**2. Deputies; staff.** The commissioner shall appoint 2 deputy commissioners, one of whom assists the commissioner with operations and administration of the department and one of whom assists the commissioner with agriculture, forestry and natural resources-based economic development.

**3. Vacancy; commissioner.** A vacancy in the office of the commissioner must be filled as follows.

A. A vacancy in the commissioner's position must be filled in accordance with Title 5, section 1.

B. The commissioner shall appoint one of the department's deputy commissioners to perform the duties of the commissioner, in addition to the duties of that deputy commissioner, during the commissioner's temporary absence or disability.

### **§204. Powers and duties of commissioner**

The commissioner has all of the powers and duties necessary to carry out the mission and responsibilities of the department. The commissioner has the power to distribute the functions and duties given to the commissioner under this Title, Title 7 and Title 12 among the various divisions of the department so as to integrate the work properly and to promote the most economical and efficient administration of the department. Powers and duties given to the commissioner or the department in this Title, Title 7 or Title 12 must be assumed and carried out by the divisions that the commissioner designates and may in turn be delegated to subordinates by division directors with the approval of the commissioner.

**1. Administration.** The commissioner shall administer the department in accordance with the requirements of this Title and shall fulfill the duties prescribed to the commissioner by state and federal law.

**2. Rulemaking.** The commissioner shall adopt rules to implement this Title. Rules adopted pursuant to this subsection are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, unless otherwise specified.

**3. Employees.** The commissioner may employ personnel as necessary to carry out the work of the department. Except as otherwise provided by law, all personnel of the department are under the immediate supervision, direction and control of the commissioner. Department personnel are subject to the Civil Service Law, except for positions subject to appointment by the commissioner under subsection 4 and as otherwise specified.

**4. Appointments.** The deputy commissioners and division directors of the department are appointed by the commissioner and serve at the pleasure of the commissioner, except as otherwise provided by law. Deputy commissioners and division directors appointed pursuant to this Title must have educational qualifications and professional experience directly related to the functions of and services provided by the relevant unit or division.

### **§205. Department organization; divisions**

The department is composed of the following divisions, each of which is under the direction and supervision of a director:

**1. Division of Agricultural Resource Development.** The Division of Agricultural Resource Development, whose director must be qualified by training, experience and skill in agricultural management;

**2. Division of Forestry.** The Division of Forestry, also known as the Maine Forest Service, whose director must be qualified by training, experience and skill in forestry;

**3. Division of Parks and Public Lands.** The Division of Parks and Public Lands, whose director must be qualified by training, experience and skill in parks, public lands, outdoor recreation or natural resource management. The commissioner shall appoint a deputy director to assist the director. The deputy director serves at the pleasure of the commissioner;

**4. Division of Quality Assurance and Regulation.** The Division of Quality Assurance and Regulation, whose director must be qualified by training, experience and skill in food quality and regulatory inspections;

**5. Division of Animal and Plant Health.** The Division of Animal and Plant Health, whose director must be qualified by training, experience and skill in scientific crop and animal production;

**6. Division of Geology and Natural Areas.** The Division of Geology and Natural Areas, whose director must be qualified by training, experience and skill in geology, natural areas or applied natural sciences; and

**7. Division of Land Use Planning, Permitting and Compliance.** The Division of Land Use Planning, Permitting and Compliance, whose director must be qualified by experience in planning and administration. The director provides the principal administrative, operational and executive support to the Maine Land Use Regulation Commission. The director is subject to appointment and removal by the commissioner, with the consent of a majority of members of the Maine Land Use Regulation Commission.

**Sec. V-2. Legislative intent; contingent repeal.** It is the intent of the Legislature that a bill submitted pursuant to Part W, section 4 that consolidates the Maine Revised Statutes, Title 7 and portions of Title 12 into Title 7-A be enacted into law by the 126th Legislature. If a bill submitted pursuant to Part W, section 4 has not been enacted into law by December 3, 2014, Title 7-A is repealed on that date.

**Sec. V-3. Contingent revision clause.** This section takes effect if the Maine Revised Statutes, Title 7-A is repealed pursuant to section 2.

1. Wherever in the Maine Revised Statutes, Title 7, the words "Department of Agriculture, Conservation and Forestry" appear or reference is made to that department, they are amended to read or mean, as appropriate, "Department of Agriculture, Food and Rural

Resources." The Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

2. Wherever in the Maine Revised Statutes, Title 12, the words "Department of Agriculture, Conservation and Forestry" appear or reference is made to that department, they are amended to read or mean, as appropriate, "Department of Conservation." The Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

3. Wherever in the Maine Revised Statutes, Title 7, the words "Commissioner of Agriculture, Conservation and Forestry" appear or reference is made to that position, they are amended to read or mean, as appropriate, "Commissioner of Agriculture, Food and Rural Resources." The Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

4. Wherever in the Maine Revised Statutes, Title 12, the words "Commissioner of Agriculture, Conservation and Forestry" appear or reference is made to that position, they are amended to read or mean, as appropriate, "Commissioner of Conservation." The Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

## PART W

**Sec. W-1. Transition.** Notwithstanding the Maine Revised Statutes, Title 7 and Title 12, the following provisions apply to the reassignment of the duties and responsibilities of the Department of Agriculture, Food and Rural Resources and the Department of Conservation to the Department of Agriculture, Conservation and Forestry.

1. The Department of Agriculture, Food and Rural Resources and the Department of Conservation as heretofore created and established by law are incorporated into the Department of Agriculture, Conservation and Forestry. All references to, responsibilities of and authority conferred upon the Department of Agriculture, Food and Rural Resources and the Department of Conservation, and those departments' predecessors, throughout the Maine Revised Statutes are deemed to refer to and vest in the Department of Agriculture, Conservation and Forestry created by this Act, as the successor department. The Department of Agriculture, Conservation and Forestry is the successor in every way to the powers, duties and functions as assigned in the Maine Revised Statutes, Title 7 to the Department of Agriculture, Food and Rural Resources and Title 12 to the Department of Conservation, as they pertain to services provided in agriculture, conservation and forestry under this Act.

2. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances of appropriations, allocations, transfers, revenues and other available funds in

an account or subdivision of an account of the Department of Agriculture, Food and Rural Resources and the Department of Conservation that pertain to the duties of the Department of Agriculture, Conservation and Forestry as set forth in this Act must be transferred to the proper accounts of the Department of Agriculture, Conservation and Forestry by the State Controller or by financial order upon the request of the State Budget Officer and with the approval of the Governor.

3. All rules of the Department of Agriculture, Food and Rural Resources and the Department of Conservation, as they pertain to the duties of the Department of Agriculture, Conservation and Forestry as set forth in this Act, that are in effect on the effective date of this Act remain in effect until rescinded, revised or amended.

4. All contracts, agreements and compacts of the Department of Agriculture, Food and Rural Resources and the Department of Conservation, as they pertain to the duties set forth in this Act, that are in effect on the effective date of this Act remain in effect until they expire or are altered by the parties involved in the contracts, agreements or compacts. The Department of Agriculture, Conservation and Forestry is the successor agency for all federal grants and programs administered by the United States Department of Agriculture and any other federal programs, grants and contracts.

5. All records of the Department of Agriculture, Food and Rural Resources and the Department of Conservation, as they pertain to the duties set forth in this Act, must be transferred to the Department of Agriculture, Conservation and Forestry as necessary to implement this Act.

6. All property and equipment of any bureau, division or program of the Department of Agriculture, Food and Rural Resources and the Department of Conservation pertaining to the duties set forth in this Act are transferred to the Department of Agriculture, Conservation and Forestry as necessary to implement this Act.

7. Notwithstanding the Maine Revised Statutes, Title 7-A, section 203 or any other provision of law, upon the effective date of this Act, the individual holding the position of Commissioner of Agriculture, Food and Rural Resources becomes the Commissioner of Agriculture, Conservation and Forestry without the need of appointment or confirmation. The Commissioner of Agriculture, Conservation and Forestry shall assume and is vested with all of the duties and powers of that office, as well as the duties and powers of the office of the Commissioner of Agriculture, Food and Rural Resources and the office of the Commissioner of Conservation. This provision is intended to change the procedure for appointment and confirmation of the first Commissioner of Agriculture, Conservation and Forestry.

8. Employees of the Department of Agriculture, Conservation and Forestry who were employees of the Department of Agriculture, Food and Rural Resources and the Department of Conservation immediately prior to the effective date of this Act retain all their employee rights, privileges and benefits, including sick leave, vacation and seniority, provided under the Civil Service Law or collective bargaining agreements. The Department of Administrative and Financial Services, Bureau of Human Resources shall provide assistance to the affected departments and shall assist with the orderly implementation of this subsection.

**Sec. W-2. Conflicts and inconsistencies.** If the Commissioner of Agriculture, Conservation and Forestry finds a conflict or inconsistency between provisions in the Maine Revised Statutes, Title 7 and Title 12 or rules adopted under those titles, the commissioner shall attempt to resolve that conflict or inconsistency by interpreting the laws or rules together to give effect to the intent of the Legislature or agency, as the case may be. If the commissioner determines rulemaking is required to resolve a conflict or inconsistency, the commissioner may adopt rules as authorized under Title 7-A, section 204, subsection 2. In adopting rules under this section, the commissioner has sole discretion to determine whether an emergency exists. The commissioner shall notify the members of the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters prior to adopting any emergency rule under this section.

**Sec. W-3. Interim meetings; authorized.** The joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters is authorized to meet up to 6 times during the 2012 legislative interim to hear and discuss reports regarding planning, program operation and implementation issues related to the establishment of the Department of Agriculture, Conservation and Forestry. At these meetings, the Commissioner of Agriculture, Conservation and Forestry shall brief the committee on program operation issues, progress, challenges and the timeline for implementation. The committee shall provide opportunities for stakeholders to communicate with the committee.

**Sec. W-4. Legislation; review.** Following the development of a department budget pursuant to section 9, the Department of Agriculture, Conservation and Forestry shall review those provisions of the Maine Revised Statutes governing the Department of Agriculture, Conservation and Forestry, including but not limited to the Maine Revised Statutes, Titles 7, 7-A and 12. Based upon the review, the department, working with the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters, shall develop and submit a bill for introduction to the 126th Legislature to consolidate existing law into Title 7-A, to update Title

7-A and to correct any errors and inconsistencies in law that result from this Part.

**Sec. W-5. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "Department of Agriculture, Food and Rural Resources" or "Department of Conservation" appear or reference is made to either or both of those departments with reference to the duties transferred to the Department of Agriculture, Conservation and Forestry as set forth in this Act, they are amended to read or mean, as appropriate, "Department of Agriculture, Conservation and Forestry." The Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. W-6. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "Commissioner of Agriculture, Food and Rural Resources" or "Commissioner of Conservation" appear or reference is made to either or both of these positions with reference to the duties transferred to the Commissioner of Agriculture, Conservation and Forestry as set forth in this Act, they are amended to read or mean, as appropriate, "Commissioner of Agriculture, Conservation and Forestry." The Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. W-7. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "Bureau of Forestry," "Bureau of Parks and Lands" or "Bureau of Geology and Natural Areas" appear or reference is made to any of these bureaus with reference to the duties transferred to the Department of Agriculture, Conservation and Forestry as set forth in this Act, they are amended to read or mean, as appropriate, "Division of Forestry," "Division of Parks and Public Lands," "Division of Geology and Natural Areas" or "the division." The Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. W-8. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "Division of Forest Protection" appear or reference is made to the Division of Forest Protection, they are amended to read or mean "the forest protection unit within the Department of Agriculture, Conservation and Forestry." The Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. W-9. Budget.** The Department of Administrative and Financial Services, Bureau of the Budget shall work with the employees of the Department of Agriculture, Food and Rural Resources and the Department of Conservation with regard to the duties transferred to the Department of Agriculture, Conservation and Forestry as set forth in this Act to develop the budget for the Department of Agriculture, Conservation and Forestry in conjunction with the Natural

Resources Service Center of the Department of Administrative and Financial Services.

**Sec. W-10. Federal approval.** If the Commissioner of Agriculture, Conservation and Forestry determines that federal approval will not be obtained for any part of this Part that requires federal approval, the commissioner shall notify the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the Executive Director of the Legislative Council.

**Sec. W-11. Functions and duties; rules, guidelines, policies and manuals.** Notwithstanding any provision of law to the contrary, the divisions established within the Department of Agriculture, Conservation and Forestry pursuant to the Maine Revised Statutes, Title 7-A, section 205 shall assume the functions and the duties of the bureaus, divisions and offices within the former Department of Agriculture, Food and Rural Resources and the former Department of Conservation in accordance with all rules, guidelines, policies, manuals and similar documents adopted by or distributed by either the former Department of Agriculture, Food and Rural Resources or the former Department of Conservation that are in effect on the effective date of this Act. These rules, guidelines, policies, manuals and similar documents remain in effect until rescinded, revised or amended, without regard to references therein to departmental offices, bureaus, divisions, units or employee titles or classifications that may no longer exist or that may be changed in the future.

## PART X

**Sec. X-1. 5 MRSA §7-B,** as amended by PL 2003, c. 688, Pt. A, §1, is further amended to read:

### §7-B. Use of state vehicles for commuting

A state-owned or state-leased vehicle may not be used by any employee to commute between home and work, except for those vehicles authorized and assigned to employees of the Baxter State Park Authority and to law enforcement officials within the following organizational units: Bureau of State Police; Maine Drug Enforcement Agency; Office of the State Fire Marshal; the division within the Department of Public Safety designated by the Commissioner of Public Safety to enforce the law relating to the manufacture, importation, storage, transportation and sale of all liquor and to administer those laws relating to licensing and collection of taxes on malt liquor and wine; Bureau of Motor Vehicles; Bureau of Marine Patrol; ~~Bureau of Forestry, Division of Forest Protection~~ the forest protection unit within the Division of Forestry; Bureau of Warden Service; and ~~Bureau of Parks and Lands~~ Division of Parks and Public Lands.

**Sec. X-2. 5 MRSA §1582, sub-§4**, as amended by PL 2011, c. 1, Pt. S, §1, is further amended to read:

**4. Use of savings; personal services funds.** Savings accrued from unused funding of employee benefits may not be used to increase services provided by employees. Accrued salary savings generated within an appropriation or allocation for Personal Services may be used for the payment of nonrecurring Personal Services costs only within the account where the savings exist. Accrued savings generated from vacant positions within a General Fund account's appropriation for Personal Services may be used to offset Personal Services shortfalls in other General Fund accounts that occur as a direct result of Personal Services appropriation reductions for projected vacancies, and accrued savings generated within a Highway Fund account's allocations for Personal Services may be used to offset Personal Services shortfalls in other Highway Fund accounts that occur as a direct result of Personal Services allocation reductions for projected vacancies; except that the transfer of such accrued savings is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Costs related to acting capacity appointments and emergency, unbudgeted overtime for which it is impractical to budget in advance may be used with the approval of the appointing authority. Other actions such as retroactive compensation for reclassifications or reallocations and retroactive or one-time settlements related to arbitrator or court decisions must be recommended by the department or agency head and approved by the State Budget Officer. Salary and employee benefits savings may not be used to fund recurring Personal Services actions either in the account where the savings exist or in another account. At the close of each fiscal year, except for the ~~Division of Forest Protection~~ forest protection unit account within the Department of Agriculture, Conservation and Forestry, the Disproportionate Share - Riverview Psychiatric Center and the Disproportionate Share - Dorothea Dix Psychiatric Center accounts within the Department of Health and Human Services and the Education in the Unorganized Territory account within the Department of Education, any unexpended General Fund Personal Services appropriations to executive branch agencies including accounts that are authorized to carry unexpended balances forward must lapse to the Salary Plan program, General Fund account in the Department of Administrative and Financial Services.

**Sec. X-3. 5 MRSA §6204, sub-§1**, as amended by PL 2011, c. 655, Pt. II, §1, is further amended to read:

**1. Composition.** The board consists of ~~11~~ 9 members, ~~7~~ 6 who are private citizens and ~~4~~ 3 who are permanent members. The permanent members are ~~the Commissioner of Conservation~~; the Commissioner

of Inland Fisheries and Wildlife; the Commissioner of Marine Resources; and the Commissioner of Agriculture, ~~Food and Rural Resources~~ Conservation and Forestry.

**Sec. X-4. 5 MRSA §6204, sub-§6**, as amended by PL 2011, c. 655, Pt. II, §2, is further amended to read:

**6. Assistance.** ~~The Department of Conservation;~~ ~~the Department of Inland Fisheries and Wildlife;~~ the Department of Inland Fisheries and Wildlife; the Department of Transportation; the Department of Agriculture, ~~Food and Rural Resources~~ Conservation and Forestry; and all other state agencies shall provide staff support and assistance considered necessary by the board to fulfill the objectives of this chapter. If agency assistance is not available, consultants may be hired from the proceeds of either the Land for Maine's Future Fund or the Public Access to Maine Waters Fund to assist the board in carrying out its responsibilities.

**Sec. X-5. 12 MRSA §8003, sub-§3, ¶M**, as amended by PL 1999, c. 155, Pt. A, §2, is further amended to read:

M. Except for lands acquired under the authority of paragraph N, the director is authorized, with the consent of the commissioner, to sell, grant, lease, transfer or otherwise convey any real or personal property under the jurisdiction of the ~~bureau~~ division. The director shall deposit the proceeds from the sale or lease of property into the ~~Division of Forest Protection Account~~ forest protection unit account. At least 60 days prior to offering any surplus property for sale under this paragraph, the director shall notify the Executive Director of the Legislative Council and the joint standing committee of the Legislature having jurisdiction over forest resources of the director's intent to sell the property.

**Sec. X-6. 12 MRSA §8003, sub-§3, ¶M-1**, as amended by PL 1999, c. 155, Pt. A, §3, is further amended to read:

M-1. The proceeds under paragraph M may be used only to upgrade existing structures owned by the ~~Division of Forest Protection~~ forest protection unit within the division, to consolidate operations of the ~~division unit~~ through the improvement, repair, replacement, purchase or construction of structures and to purchase land upon which to build structures. Ownership of any land purchased under this paragraph or structures purchased or constructed under this paragraph must be held in the name of the ~~division unit~~. Ownership of land or property purchased under this paragraph may also be held in the name of the Bureau of General Services when the ~~division unit~~ participates in the consolidation of facilities with other state agencies. Any purchase of land or a

structure pursuant to this paragraph must be approved by the Director of the Bureau of General Services.

**Sec. X-7. 12 MRSA §8901, sub-§1**, as amended by PL 1999, c. 155, Pt. A, §4, is further amended to read:

**1. Appointment.** The Director of the ~~Bureau~~ Division of Forestry shall appoint forest rangers, subject to the Civil Service Law and the State Supervisor; ~~Division of Forest Protection of the forest protection unit of the Division of Forestry.~~ Rangers assigned to posts at Clayton Lake, St. Pamphile, Estcourt Station, Daaquam, Musquacook Lake, Snare Brook and Baker Lake must be bilingual in French and English.

**Sec. X-8. 38 MRSA §1871, sub-§1**, as enacted by PL 2001, c. 434, Pt. B, §2 and amended by PL 2003, c. 689, Pt. B, §7, is further amended to read:

**1. Membership.** The task force consists of ~~17~~ 16 members as follows:

A. The following ~~5~~ 4 ex officio voting members:

- (1) The commissioner or the commissioner's designee, who serves as the chair of the task force;
- (2) The Commissioner of Inland Fisheries and Wildlife or the commissioner's designee;
- (3) The Commissioner of Health and Human Services or the commissioner's designee; and
- (4) The Commissioner of Agriculture, ~~Food and Rural Resources~~ Conservation and Forestry or the commissioner's designee; and
- ~~(5) The Commissioner of Conservation or the commissioner's designee; and~~

B. Twelve members representing the public appointed by the Governor:

- (1) One representative of the State's lake associations;
- (2) One representative of a statewide recreational watercraft owners association;
- (3) One representative of a statewide organization of marina owners;
- (4) One representative of a lakes education program;
- (5) One representative of public drinking water utilities;
- (6) One representative of commercial tree and garden nurseries;
- (7) One representative of home gardeners;
- (8) One representative of municipal government;

(9) One representative of a statewide sporting association;

(10) One representative of a statewide outdoor recreational group;

(11) One person with demonstrated expertise in lake ecology; and

(12) One public member who has demonstrated experience or interest in the area of threats to fish and wildlife posed by invasive aquatic plants and nuisance species.

## PART Y

**Sec. Y-1. 2 MRSA §6, sub-§1**, as repealed and replaced by PL 2005, c. 397, Pt. A, §1, is amended to read:

**1. Range 91.** The salaries of the following state officials and employees are within salary range 91:

Commissioner of Transportation;

~~Commissioner of Conservation;~~

Commissioner of Agriculture, Conservation and Forestry;

Commissioner of Administrative and Financial Services;

Commissioner of Education;

Commissioner of Environmental Protection;

Executive Director of Dirigo Health;

Commissioner of Public Safety;

Commissioner of Professional and Financial Regulation;

Commissioner of Labor;

~~Commissioner of Agriculture, Food and Rural Resources;~~

Commissioner of Inland Fisheries and Wildlife;

Commissioner of Marine Resources;

Commissioner of Corrections;

Commissioner of Economic and Community Development;

Commissioner of Defense, Veterans and Emergency Management; and

Executive Director, Workers' Compensation Board.

**Sec. Y-2. 2 MRSA §6, sub-§3**, as amended by PL 2011, c. 655, Pt. I, §2 and Pt. CC, §1 and affected by Pt. I, §11 and Pt. CC, §4, is further amended to read:

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

Director, Bureau of General Services;  
 Director, Bureau of Alcoholic Beverages and Lottery Operations;  
 State Budget Officer;  
 State Controller;  
 Director of the Bureau, Division of Forestry;  
 Director, Governor's Office of Policy and Management;  
 Director, Energy Resources Office;  
 Director of Human Resources;  
 Director, ~~Bureau~~ Division of Parks and Public Lands; and  
 Director of the Governor's Office of Communications.

**Sec. Y-3. 2 MRSA §6, sub-§5**, as amended by PL 2011, c. 655, Pt. KK, §2 and affected by §34, is further amended to read:

**5. Range 86.** The salaries of the following state officials and employees are within salary range 86:

Director of Labor Standards;  
 State Archivist;  
~~Director, Bureau of Geology, Natural Areas and Coastal Resources;~~  
~~Executive Director, Maine Land Use Regulation Commission;~~  
Director, Division of Geology, Natural Areas and Coastal Resources;  
Director, Division of Land Use Planning, Permitting and Compliance;  
 Chair, Maine Unemployment Insurance Commission;  
 Child Welfare Services Ombudsman; and  
 Director of the Maine Drug Enforcement Agency.

**PART Z**

**Sec. Z-1. 22 MRSA §3174-G, sub-§1, ¶E**, as amended by PL 2011, c. 477, Pt. Z, §1, is further amended to read:

E. On or before September 30, 2012, the parent or caretaker relative of a child described in paragraph B or D when the child's family income is equal to or below 200% of the nonfarm income official poverty line, subject to adjustment by the commissioner under this paragraph and, beginning October 1, 2012, the parent or caretaker relative of a child described in paragraph B or D when the child's family income is equal to or below ~~133%~~ 100% of the nonfarm income official poverty line, ~~subject to adjustment by the com-~~

~~missioner under this paragraph.~~ Medicaid services provided under this paragraph must be provided within the limits of the program budget. Funds appropriated for services under this paragraph must include an annual inflationary adjustment equivalent to the rate of inflation in the Medicaid program. On a quarterly basis, the commissioner shall determine the fiscal status of program expenditures under this paragraph. If the commissioner determines that expenditures will exceed the funds available to provide Medicaid coverage pursuant to this paragraph, the commissioner must adjust the income eligibility limit for new applicants to the extent necessary to operate the program within the program budget. If, after an adjustment has occurred pursuant to this paragraph, expenditures fall below the program budget, the commissioner must raise the income eligibility limit to the extent necessary to provide services to as many eligible persons as possible within the fiscal constraints of the program budget, as long as on or before September 30, 2012 the income limit does not exceed 200% of the nonfarm income official poverty line ~~and, beginning October 1, 2012, the income limit does not exceed 133% of the nonfarm income official poverty line;~~

**Sec. Z-2. Contingent effective date.** This Part takes effect only if:

1. The Commissioner of Health and Human Services receives written approval of the application for a waiver of the maintenance of effort requirements of the federal Patient Protection and Affordable Care Act for the changes in section 1 from the federal Centers for Medicare and Medicaid Services or the commissioner receives written notification from the Centers for Medicare and Medicaid Services that such a waiver is not necessary; and

2. The Commissioner of Health and Human Services notifies the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes that written approval of the application for a waiver or written notification that such a waiver is not necessary has been received.

**PART AA**

**Sec. AA-1. 3 MRSA §959, sub-§1, ¶F**, as amended by PL 2007, c. 356, §1 and affected by c. 695, Pt. D, §3, is further amended to read:

F. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall use the following list as a guideline for scheduling reviews:

- ~~(2) Office of Substance Abuse in 2005;~~
- (6) Department of Health and Human Services in 2009;

(7) Board of the Maine Children's Trust Incorporated in 2011; and

(9) Maine Developmental Disabilities Council in 2011.

**Sec. AA-2. 4 MRSA §422, sub-§2, ¶A**, as enacted by PL 1999, c. 780, §1 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

A. The Department of Health and Human Services, ~~Office of Substance Abuse~~ or other federal-licensed treatment providers or state-licensed treatment providers to provide substance abuse services for alcohol and drug treatment program participants. To the extent possible, the alcohol and drug treatment programs must access existing substance abuse treatment resources for alcohol and drug treatment program participants;

**Sec. AA-3. 5 MRSA §939-A**, as enacted by PL 1993, c. 410, Pt. LL, §1, is repealed.

**Sec. AA-4. 5 MRSA §19202, sub-§2-B, ¶A**, as enacted by PL 2009, c. 203, §4 and affected by §8, is amended to read:

A. The committee includes 7 members as follows, of whom only the Legislators are voting members:

(1) Two members of the Legislature, one Senator nominated by the President of the Senate and one Representative nominated by the Speaker of the House of Representatives;

(2) The director of the HIV, STD and viral hepatitis program within the Department of Health and Human Services, Maine Center for Disease Control and Prevention;

(3) A representative of the Department of Education, nominated by the Commissioner of Education;

(4) A representative of the Department of Corrections, nominated by the Commissioner of Corrections;

(5) A representative of the organizational unit of the Department of Health and Human Services, ~~Office of Substance Abuse~~ that provides programs and services for substance abuse prevention and treatment, nominated by the Commissioner of Health and Human Services; and

(6) A representative of the Department of Health and Human Services, Office of MaineCare Services, nominated by the Commissioner of Health and Human Services.

**Sec. AA-5. 5 MRSA §20002, sub-§§2 and 3**, as amended by PL 2007, c. 116, §1, are further amended to read:

**2. Coordination of activities and services.** To establish ~~a single administrative unit~~ within the Department of Health and Human Services, with the responsibility for planning, developing, implementing, coordinating and evaluating all of the State's alcohol and other drug abuse prevention and treatment activities and services;

**3. Tobacco use by juveniles.** To enforce the State's laws relating to the sale and use of tobacco products by juveniles and to coordinate state and local activities related to those provisions. The office department shall take all necessary actions to ensure compliance with the Synar Act, 42 United States Code, Section 300X-26, including the preparations of reports for the signature of the Governor. All law enforcement agencies, all state departments, including the Department of Public Safety, and municipalities shall cooperate with the office department in these efforts.

The office department may enter into any contracts or agreements necessary or incidental to the performance of its duties under this section, subject to section 20005, subsection 6 and section 20005-A. The office department shall provide or assist in the provision of voluntary training programs regarding the sales of tobacco products to juveniles; and

**Sec. AA-6. 5 MRSA §20002, sub-§4**, as enacted by PL 2007, c. 116, §1, is amended to read:

**4. Gambling addiction counseling.** To establish standards for the provision of gambling addiction counseling services and other activities relating to the prevention and treatment of gambling addiction. The office department may accept private, state and federal funds to support the performance of its duties under this subsection.

**Sec. AA-7. 5 MRSA §20003, sub-§2**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

**2. Approved public treatment facility.** "Approved public treatment facility" means an alcohol treatment facility operating under the direction and control of the office department or providing treatment under this subchapter through a contract with the office department under section 20008, or any facility funded in whole or in part by municipal, state or federal funds.

**Sec. AA-8. 5 MRSA §20003, sub-§3**, as amended by PL 1991, c. 850, §2, is further amended to read:

**3. Approved treatment facility.** "Approved treatment facility" means a public or private alcohol treatment facility meeting standards approved by the

~~office~~ department in accordance with section 20005 and licensed pursuant to subchapter ~~V~~ 5 and other applicable provisions of state law.

**Sec. AA-9. 5 MRSA §20003, sub-§3-B**, as enacted by PL 1995, c. 560, Pt. L, §2 and affected by §16 and amended by PL 2001, c. 354, §3, is further amended to read:

**3-B. Commissioner.** "Commissioner" means the Commissioner of ~~Behavioral and Development Services~~ Health and Human Services.

**Sec. AA-10. 5 MRSA §20003, sub-§6**, as amended by PL 1991, c. 601, §4, is further amended to read:

**6. Department.** "Department" means the ~~Executive~~ Department of Health and Human Services.

**Sec. AA-11. 5 MRSA §20003, sub-§8**, as enacted by PL 1989, c. 934, Pt. A, §3, is repealed.

**Sec. AA-12. 5 MRSA §20003, sub-§17**, as enacted by PL 1989, c. 934, Pt. A, §3, is repealed.

**Sec. AA-13. 5 MRSA §20003, sub-§20**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

**20. Standards.** "Standards" means criteria and rules of ~~the office or~~ the department that are to be met before and during operation of any treatment facility or treatment program.

**Sec. AA-14. 5 MRSA §20004**, as repealed and replaced by PL 1995, c. 560, Pt. L, §3 and affected by §16 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is repealed.

**Sec. AA-15. 5 MRSA §20004-A**, as enacted by PL 1993, c. 410, Pt. LL, §6, is amended to read:

**§20004-A. Departments and agencies responsible for cooperation in implementation**

All departments and agencies in State Government are required to cooperate with the ~~office~~ department in its implementation and administration of this chapter.

**Sec. AA-16. 5 MRSA §20005, first ¶**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

The ~~office~~ department shall:

**Sec. AA-17. 5 MRSA §20005, sub-§2**, as amended by PL 1991, c. 601, §6, is further amended to read:

**2. Comprehensive plan.** Develop and provide for the implementation of a comprehensive state plan for alcohol and drug abuse. Any plan developed by the ~~office~~ department must be subject to public hearing prior to implementation;

**Sec. AA-18. 5 MRSA §20005, sub-§5**, as amended by PL 1995, c. 560, Pt. L, §4 and affected by §16, is further amended to read:

**5. Budget.** Develop and submit to the Legislature by January 15th of the first year of each legislative biennium recommendations for continuing and supplemental allocations, deappropriations or reduced allocations and appropriations from all funding sources for all state alcohol and drug abuse programs. The ~~office~~ department shall make final recommendations to the Governor before any substance abuse funds are appropriated or deappropriated in the Governor's proposed budget. The ~~office~~ department shall formulate all budgetary recommendations for the Driver Education and Evaluation Programs with the advice, consultation and full participation of the chief executive officer of the Driver Education and Evaluation Programs.

Notwithstanding any other provision of law, funding appropriated and allocated by the Legislature for the ~~Office of Substance Abuse~~ department for substance abuse prevention and treatment is restricted solely to ~~the that~~ use of ~~that office~~ and may not be used for other expenses of ~~any other part of~~ the department. By January 15th of each year, the ~~director~~ commissioner or the commissioner's designee shall deliver a report of the budget and expenditures of the ~~office~~ department for substance abuse prevention and treatment to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and human resource matters;

**Sec. AA-19. 5 MRSA §20005, sub-§6**, as amended by PL 2011, c. 542, Pt. A, §6, is further amended to read:

**6. Contracts and licensing.** Through the ~~director~~ commissioner:

A. Administer all contracts with community service providers for the delivery of alcohol and drug abuse services;

A-1. Administer all contracts with community service providers for the delivery of gambling addiction counseling services; and

B. Establish operating and treatment standards and inspect and issue certificates of approval for approved treatment facilities, drug abuse treatment facilities or programs, including residential treatment centers, community-based service providers and facilities that are private nonmedical institutions pursuant to section 20024 and subchapter 5.

The commissioner may delegate contract and licensing duties under this subsection to ~~the Department of Health and Human Services~~, the Department of Corrections or other divisions of the department as long as that delegation ensures that contracting for alcohol and

other drug abuse services provided in community settings ~~are~~ is consolidated within the ~~Department of Health and Human Services department,~~ that contracting for alcohol and other drug abuse services delivered within correctional facilities ~~are~~ is consolidated within the Department of Corrections and that contracting for alcohol and other drug abuse services delivered within mental health facilities or as a component of programs serving persons with intellectual disabilities or autism ~~are~~ is consolidated within the department.

The commissioner may not delegate contract and licensing duties if that delegation results in increased administrative costs.

The commissioner may not issue requests for proposals for existing contract services until the commissioner has adopted rules in accordance with the Maine Administrative Procedure Act to ensure that the reasons for which existing services are placed out for bid and the performance standards and manner in which compliance is evaluated are specified and that any change in provider is accomplished in a manner that fully protects the consumer of services.

The commissioner shall establish a procedure to obtain assistance and advice from consumers of alcohol and other drug abuse services regarding the selection of contractors when requests for proposals are issued;

**Sec. AA-20. 5 MRSA §20005, sub-§12,** as amended by PL 1991, c. 601, §6, is further amended to read:

**12. Rules.** Adopt rules, in accordance with the Maine Administrative Procedure Act, necessary to carry out the purposes of this chapter and approve any rules adopted by state agencies for the purpose of implementing alcohol or drug abuse prevention or treatment programs.

All state agencies must comply with rules adopted by the ~~office department~~ regarding uniform alcohol and other drug abuse contracting requirements, formats, schedules, data collection and reporting requirements;

**Sec. AA-21. 5 MRSA §20005, sub-§14,** as enacted by PL 1993, c. 410, Pt. LL, §10, is amended to read:

**14. Interdepartmental cooperation.** Document to the Legislature's satisfaction, active participation and cooperation between the ~~office department~~ and the other departments with which it works through the commission;

**Sec. AA-22. 5 MRSA §20005, sub-§16,** as enacted by PL 1993, c. 410, Pt. LL, §10, is amended to read:

**16. Substance abuse services plan.** Plan for not only those services funded directly by the ~~office department~~, but also those additional services determined by the commission to be critical and related;

**Sec. AA-23. 5 MRSA §20006-A,** as amended by PL 2007, c. 539, Pt. N, §7, is further amended to read:

**§20006-A. Commissioner duties**

The ~~director~~ commissioner or the commissioner's designee shall:

**1. Alternatives.** Propose alternatives to current alcohol and drug abuse prevention and treatment programs and services;

**2. Investigate.** Conduct investigations and studies of any alcohol or drug abuse program or community service provider operating under the control of the ~~office department~~ or providing treatment under this chapter through a contract with the ~~office department~~ under section 20008, that are licensed pursuant to section 20024 or any facility funded in whole or in part by municipal, state or local funds, as necessary; and

**3. Other duties and powers.** Carry out other duties and exercise other powers granted to the ~~director commissioner~~ under this Act and ~~delegated to the director by the commissioner~~ under Title 22-A, section 207, subsection 3.

**Sec. AA-24. 5 MRSA §20006-B,** as enacted by PL 2009, c. 622, §1, is amended to read:

**§20006-B. Gambling Addiction Prevention and Treatment Fund**

**1. Fund established.** The Gambling Addiction Prevention and Treatment Fund, referred to in this section as "the fund," is established for the purpose of supporting gambling addiction analysis, prevention and treatment to be administered by the ~~office department~~. The fund is a dedicated, nonlapsing fund into which payments are received in accordance with Title 8, section 1036, subsection 2.

**2. Report.** The ~~director~~ commissioner or the commissioner's designee shall report annually by March 1st to the joint standing committee of the Legislature having jurisdiction over gambling matters. The report must include a description of a continuum of care model used to identify the need for gambling addiction services, prevention efforts, intervention and treatment provided using money from the fund. The report must describe any collaborative efforts between the ~~office department~~, the Gambling Control Board established under Title 8, section 1002 and slot machine operators licensed in accordance with Title 8, chapter 31 to support the purpose of the fund described in subsection 1. The ~~director commissioner~~ may submit recommendations for legislation to the joint standing committee of the Legislature having jurisdiction over gambling matters, which is authorized to submit that legislation to the Legislature.

**Sec. AA-25. 5 MRSA §20007,** as amended by PL 1995, c. 165, §1, is further amended to read:

**§20007. Agency cooperation**

State agencies shall cooperate fully with the ~~office and council~~ department in carrying out this chapter. A state agency may not develop, establish, conduct or administer any alcohol or drug abuse prevention or treatment program without the approval of the ~~office~~ department. The ~~office~~ department may request personnel, facilities and data from other agencies as the ~~director~~ commissioner finds necessary to fulfill the purposes of this Act.

**Sec. AA-26. 5 MRSA §20008, first ¶**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

The ~~office~~ department shall establish and provide for the implementation of a comprehensive and coordinated program of alcohol and drug abuse prevention and treatment in accordance with subchapters ~~H 2~~ and ~~H 3~~ and the purposes of this Act. The program must include the following elements.

**Sec. AA-27. 5 MRSA §20008, sub-§3**, as amended by PL 1991, c. 601, §10, is further amended to read:

**3. Treatment.** The ~~office~~ department shall provide for adequate and appropriate treatment for alcoholics, ~~drugs~~ drug abusers, drug addicts and drug-dependent persons admitted under sections 20043 to 20044. Treatment may not be provided at a correctional institution, except for inmates.

**Sec. AA-28. 5 MRSA §20008, sub-§4**, as enacted by PL 1991, c. 601, §11, is amended to read:

**4. Contract with facilities.** The ~~office~~ department shall contract with approved treatment facilities whenever possible. The administrator of any treatment facility may receive for observation, diagnosis, care and treatment in the facility any person whose admission is applied for under any of the procedures in this subchapter.

**Sec. AA-29. 5 MRSA §20009, first ¶**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

The ~~office~~ department shall plan alcohol and drug abuse prevention and treatment activities in the State and prepare and submit to the Legislature the following documents:

**Sec. AA-30. 5 MRSA §20021**, as amended by PL 1991, c. 601, §14, is further amended to read:

**§20021. Public awareness**

The ~~office~~ department shall create and maintain a program to increase public awareness of the impacts and prevalence of alcohol and drug abuse. The public awareness program must include promotional and technical assistance to local governments, schools and

public and private nonprofit organizations interested in alcohol and drug abuse prevention.

**Sec. AA-31. 5 MRSA §20022, first ¶**, as amended by PL 1991, c. 601, §15, is further amended to read:

As part of its comprehensive prevention and treatment program, the ~~office~~ department shall operate an information clearinghouse and oversee, support and coordinate a resource center within the Department of Education. The information clearinghouse and resource center constitute a comprehensive reference center of information related to the nature, prevention and treatment of alcohol and other drug abuse. In fulfillment of the requirement of this section, the resource center may be located within the Department of Education and may operate there pursuant to a memorandum of agreement between the ~~office and the department~~ departments. Information must be available for use by the general public, political subdivisions, public and private nonprofit agencies and the State.

**Sec. AA-32. 5 MRSA §20023**, as amended by PL 1991, c. 601, §§16 and 17, is further amended to read:

**§20023. Education**

To the fullest extent possible, the Commissioner of Education shall coordinate all elementary and secondary school alcohol and drug abuse education programs administered by the Department of Education and funded under the federal Drug-Free Schools and Communities Act of 1986 with programs administered by the ~~office~~ Department of Health and Human Services. The Commissioner of Education shall participate in planning, budgeting and evaluation of alcohol and other drug abuse programs, in cooperation with the Substance Abuse Advisory Group, and ensure that alcohol and drug abuse education programs administered by the Department of Education that involve any community participation are coordinated with available treatment services.

~~The Commissioner of Education, in cooperation with the Substance Abuse Advisory Group, shall prepare a plan to ensure the coordination and consolidation of alcohol and other drug abuse education programs and must present the plan to the director by January 1, 1992. The plan must be consistent with requirements of the federal Drug-Free Schools and Communities Act of 1986 and this chapter.~~

Nothing in this section interferes with the authority of the Department of Education to receive and allocate federal funds under the federal Drug-Free Schools and Communities Act of 1986.

**Sec. AA-33. 5 MRSA §20024**, as amended by PL 2011, c. 145, §1, is further amended to read:

**§20024. Licensing**

The ~~office~~ department shall periodically enter, inspect and examine a treatment facility or program and examine its books, programs, standards, policies and accounts. This examination process must include a review of the requirements to be a community-based service provider pursuant to subchapter ~~¶ 5~~. The ~~office~~ department shall fix and collect the fees for the inspection and certification and shall maintain a list of approved public and private treatment facilities.

Upon request by the ~~office~~ department, each approved public and private treatment facility must provide data, statistics, schedules and information that the ~~office~~ department reasonably requires. The ~~director~~ commissioner may remove a facility that fails to provide such information from the list of approved facilities.

An approved public or private treatment facility may not refuse inspection or examination by the ~~office~~ department under this section.

Procedures to decertify any facility or to refuse certification are governed by the Maine Administrative Procedure Act.

A treatment facility or program that receives and maintains accreditation from a national accrediting body approved by the department must be deemed in compliance with comparable state licensing rules upon its submission to the department of written evidence of compliance including, but not limited to, national accreditation approval, reports, findings and responses. The department may review compliance under this paragraph in response to a complaint against the facility or program.

**Sec. AA-34. 5 MRSA §20041, sub-§1**, as amended by PL 1991, c. 601, §20, is further amended to read:

**1. Data collection; sources.** The ~~office~~ department shall collect data and use information from other sources to evaluate or provide for the evaluation of the impact, quality and value of alcohol and drug abuse prevention activities, treatment facilities and other alcohol and other drug abuse programs.

**Sec. AA-35. 5 MRSA §20042**, as amended by PL 1991, c. 601, §20, is further amended to read:

**§20042. Standards**

The ~~office~~ department shall contract for treatment services only with approved treatment facilities.

**Sec. AA-36. 5 MRSA §20043, first ¶**, as amended by PL 1991, c. 601, §20, is further amended to read:

The ~~office~~ department shall adopt rules for acceptance of persons into a treatment program, considering available treatment resources and facilities, for the

purpose of early and effective treatment of alcoholics, drug abusers, drug addicts and drug-dependent persons.

**Sec. AA-37. 5 MRSA §20043, 2nd ¶**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

In establishing rules, the ~~office~~ department must be guided by the following standards.

**Sec. AA-38. 5 MRSA §20043, sub-§6**, as amended by PL 1991, c. 601, §20, is further amended to read:

**6. Denial of treatment services.** A person, firm or corporation licensed by the ~~Office of Substance Abuse~~ department as an approved alcohol or drug treatment facility under Title 5, section 20005 to provide shelter or detoxification services, and that receives any funds administered by the ~~office~~ department to provide substance abuse prevention and treatment services, may not deny treatment to any person because of that person's inability or failure to pay any assessed fees.

**Sec. AA-39. 5 MRSA §20044, sub-§2**, as amended by PL 1991, c. 601, §20, is further amended to read:

**2. Determination.** A person who comes voluntarily or is brought to an approved treatment facility for residential care and treatment must be examined immediately by a licensed physician. That person may then be admitted or referred to another health facility based upon the physician's recommendation. Subject to rules adopted by the ~~office~~ department, the administrator in charge of an approved treatment facility may determine who may be admitted for treatment. If a person is refused admission to an approved treatment facility, the administrator, subject to rules adopted by the ~~office~~ department, shall refer the person to another approved treatment facility for treatment if possible and appropriate.

**Sec. AA-40. 5 MRSA §20047, sub-§2**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

**2. Information for research.** Notwithstanding subsection 1, the ~~director~~ commissioner may make available information from patients' records for purposes of research into the causes and treatment of alcoholism and drug abuse. Information under this subsection may not be published in a way that discloses patients' names or other identifying information.

**Sec. AA-41. 5 MRSA §20048**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

**§20048. Visitation and communication of patients**

**1. Hours of visitation.** Subject to reasonable rules regarding hours of visitation ~~which that the~~ director commissioner may adopt, patients in any approved

treatment facility must be granted opportunities for adequate consultation with counsel and for continuing contact with family and friends consistent with an effective treatment program.

**2. Communication.** Mail or other communication to or from a patient in any approved treatment facility may not be intercepted, read or censored. The ~~director~~ commissioner may adopt reasonable rules regarding the use of telephones by patients in approved treatment facilities.

**3. Restrictions.** The patient may exercise all civil rights, including, but not limited to, civil service status; the right to vote; rights relating to the granting, renewal, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law; and the right to enter contractual relationships and to manage the patient's property, except:

A. To the extent the ~~director~~ commissioner determines that it is necessary for the medical welfare of the patient to impose restrictions, unless the patient has been restored to legal capacity; or

B. When specifically restricted by other laws or rules.

Restrictions on the exercise of civil rights may not be imposed on any patient solely because of the fact of that person's admission to a mental hospital.

**Sec. AA-42. 5 MRSA §20050, sub-§3**, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

**3. Finances.** The ~~office~~ department shall adopt rules governing financial ability that take into consideration the patient's income, savings, other personal and real property and any support being furnished to any other person that the patient is required by law to support.

**Sec. AA-43. 5 MRSA §20065, sub-§8**, as amended by PL 1995, c. 560, Pt. L, §9 and affected by §16, is further amended to read:

**8. Administrative and financial assistance.** The ~~office~~ department shall provide the commission administrative or financial assistance that is available from ~~office~~ department resources.

**Sec. AA-44. 5 MRSA §20067, first ¶**, as enacted by PL 1993, c. 410, Pt. LL, §12, is amended to read:

The commission, in cooperation with the ~~office~~ department, has the following duties.

**Sec. AA-45. 5 MRSA §20067, sub-§1-A**, as enacted by PL 1995, c. 560, Pt. L, §11 and affected by §16, is amended to read:

**1-A. Advise the department.** The commission shall advise the ~~office~~ department in the development

and implementation of significant policy matters relating to substance abuse.

**Sec. AA-46. 5 MRSA §20067, sub-§3**, as enacted by PL 1993, c. 410, Pt. LL, §12, is amended to read:

**3. Serve as advocate; review and evaluate; inform the public.** The commission shall serve as an advocate on alcoholism and drug abuse prevention, promoting and assisting activities designed to meet the problems of drug abuse and drug dependence at the national and state levels. With the support of the ~~office~~ department, the commission shall review and evaluate on a continuing basis state and federal policies and programs relating to drug abuse and other activities conducted or assisted by state departments or agencies that affect persons who abuse or are dependent on drugs. In cooperation with the ~~office~~ department, the commission shall keep the public informed by collecting and disseminating information, by conducting or commissioning studies and publishing the results of those studies, by issuing publications and reports and by providing public forums, including conferences and workshops.

**Sec. AA-47. 5 MRSA §20072, first ¶**, as amended by PL 1995, c. 560, Pt. L, §12 and affected by §16, is further amended to read:

The Driver Education and Evaluation Programs are established in the ~~office~~ department. The Driver Education and Evaluation Programs shall administer the alcohol and other drug education, evaluation and treatment programs as provided in this chapter. The ~~office~~ department shall certify to the Secretary of State:

**Sec. AA-48. 5 MRSA §20073-B**, as enacted by PL 1999, c. 448, §6, is amended to read:

**§20073-B. Programs and components; rules**

The ~~office~~ department shall design programs and components that are age-appropriate and therapeutically appropriate. The ~~office~~ department shall adopt rules regarding requirements for these programs and components and any other rules necessary to implement this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter ~~HA 2-A~~.

**Sec. AA-49. 5 MRSA §20074**, as amended by PL 1991, c. 850, §9, is further amended to read:

**§20074. Separation of evaluation and treatment functions**

A Driver Education and Evaluation Programs private practitioner or a counselor employed by a substance abuse facility approved or licensed by the ~~office~~ department providing services under this subchapter may not provide both treatment services and evaluation services for the same individual participating in

programs under this subchapter unless a waiver is granted on a case-by-case basis by the Driver Education and Evaluation Programs. The practitioner or counselor providing evaluation services shall give a client the name of 3 practitioners or counselors who can provide treatment services, at least one of whom may not be employed by the same agency as the practitioner or counselor conducting the evaluation.

**Sec. AA-50. 5 MRSA §20075**, as amended by PL 2001, c. 511, §2, is further amended to read:

**§20075. Certification; recertification**

All providers of the evaluation, intervention and treatment components of the Driver Education and Evaluation Programs must be certified by the ~~office department~~ pursuant to section 20005, section 20024, section 20073-B and this subchapter. The certification period for individual providers and agencies is 2 years. The ~~office department~~ shall adopt rules requiring continuing education for recertification.

**Sec. AA-51. 5 MRSA §20076-B**, as enacted by PL 1999, c. 448, §9, is amended to read:

**§20076-B. Fees**

The ~~office department~~ shall set fees in accordance with the cost of each program. All fees must be transferred to the General Fund. The ~~office department~~ may waive all or part of any fee for a client who provides sufficient evidence of inability to pay.

**Sec. AA-52. 5 MRSA §20077**, as enacted by PL 1991, c. 601, §28, is amended to read:

**§20077. Report**

Beginning in 1992, the ~~director commissioner~~ shall report annually by February 1st to the joint standing committee of the Legislature having jurisdiction over human resource matters regarding the ~~office's department's~~ activities under this subchapter. A copy of the report must be sent to the Executive Director of the Legislative Council.

**Sec. AA-53. 5 MRSA §20078-A, sub-§3**, as enacted by PL 1993, c. 631, §7, is amended to read:

**3. Facilities; staff.** The ~~director commissioner~~ shall provide staff support and adequate facilities for the board.

**Sec. AA-54. 5 MRSA §20078-A, sub-§4**, as enacted by PL 1993, c. 631, §7, is amended to read:

**4. Chair; rules.** The board shall elect annually a chair from its members. The ~~director commissioner~~ shall adopt rules to carry out the purposes of this section.

**Sec. AA-55. 12 MRSA §10701, sub-§3, ¶D**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9 and amended by c. 689, Pt. B, §6, is further amended to read:

D. In addition to the penalties provided under paragraphs A to C, the court may order the defendant to participate in the alcohol and other drug education, evaluation and treatment programs for multiple offenders administered by the Department of Health and Human Services, ~~Office of Substance Abuse~~, as established in under Title 5, chapter 521.

**Sec. AA-56. 17 MRSA §2005, sub-§3**, as enacted by PL 1997, c. 756, §1 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**3. Reporting.** Beginning April 30, 1998 and monthly thereafter, each law enforcement agency shall submit a copy of its records of all known incidents of public intoxication to the Department of Public Safety. These records may not include individuals' names. Beginning June 30, 1998 and quarterly thereafter, the Department of Public Safety shall forward these records to the Department of Health and Human Services, ~~Office of Substance Abuse~~. The records must include at least the following information:

A. The number of reported cases of public intoxication;

B. The number of persons who are reported more than one time pursuant to paragraph A;

C. The number of persons voluntarily transported to a state-licensed treatment facility or shelter as a result of reported incidents of public intoxication;

D. The number of persons voluntarily transported to their residence or left with a family member or friend as a result of reported incidents of public intoxication; and

E. The number of intoxicated persons left at the scene of the reported incident or at another public place.

**Sec. AA-57. 20-A MRSA §6621**, as enacted by PL 2005, c. 674, §3, is amended to read:

**§6621. Performance-enhancing substances**

**1. List of banned substances.** ~~By January 1, 2007 the Director of the Office of Substance Abuse within the Department~~ The Commissioner of Health and Human Services, ~~known in this subchapter as "the director,"~~ shall develop a list of banned performance-enhancing substances. The list must include, but is not limited to, the following:

A. Ephedrine;

B. Synephrine, also known as bitter orange;

C. Dehydroepiandrosterone;

D. All dietary supplements as defined by 21 United States Code, Section 321, Subsection (ff) that are on a banned substance list maintained by

the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations; and

E. All other substances that are on a banned substance list maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations except for:

- (1) A substance that is otherwise illegal in this State; or
- (2) A substance the use of which by minors is illegal in this State.

**2. Amendments to list.** The ~~director~~ Commissioner of Health and Human Services shall amend the banned substances list each time a dietary supplement or other substance referenced in subsection 1, paragraph D or E is added to the list of banned substances maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations. For a substance to be prohibited under section 6624 in a particular school year, the substance must be added to the banned substances list maintained under this section no later than July 1st preceding that school year.

**3. Notification.** The ~~director~~ Commissioner of Health and Human Services shall notify the department, the Maine School Management Association and the Maine Principals' Association or their successor organizations when the initial list of banned substances is complete and of any subsequent changes to the list. The department shall notify all school administrative units that have students who participate in sports of the availability of the list. The ~~director~~ Commissioner of Health and Human Services shall post the list on ~~its~~ the publicly accessible website of the Department of Health and Human Services.

**Sec. AA-58. 22 MRSA §272, sub-§2,** as enacted by PL 1997, c. 560, Pt. D, §2 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**2. Tobacco Prevention and Control Advisory Council.** The Tobacco Prevention and Control Advisory Council is established under Title 5, section 12004-I, subsection 36-D to review the program. The advisory council shall provide advice to the bureau in carrying out its duties under this section and ensure coordination of the program with relevant nonprofit and community agencies and the Department of Education, the department, ~~the Office of Substance Abuse~~ and other relevant state agencies. The advisory council consists of 9 members, appointed as follows:

- A. Two public health officials, appointed by the Governor;
- B. Two representatives of nonprofit organizations involved in seeking to reduce the use of tobacco

products in the State, with one representative appointed by the President of the Senate and one representative appointed by the Speaker of the House of Representatives;

C. A person who designs and implements issue-oriented public health media campaigns, appointed by the Governor;

D. Two persons involved in designing and implementing community-based education or cessation programs for the prevention of tobacco products use, one to focus on adults, appointed by the President of the Senate, and one to focus on youth, appointed by the Speaker of the House of Representatives; and

E. Two members of the public, appointed jointly by the President of the Senate and the Speaker of the House of Representatives in consultation with the leaders of the minority political party.

Appointments to the advisory council must be made by October 15, 1997. Members serve for 3-year terms and may be reappointed. When the appointment of all members is complete, the Governor or the Governor's designee shall convene the first meeting of the advisory council no later than November 15, 1997. The advisory council shall choose a chair from among its members and establish its procedure for reaching decisions. The bureau shall provide staff assistance to the advisory council. The advisory council shall report annually on the program to the Governor and the Legislature by December 1st and include any recommendations or proposed legislation to further the purposes of the program.

The appointing authority shall fill a vacancy on the advisory council for the remainder of the vacant term. Each member who is not a salaried employee is entitled to compensation as provided in Title 5, section 12004-I, subsection 36-D, following approval of expenses by the Director of the Bureau of Health.

**Sec. AA-59. 22 MRSA §1551-A, sub-§5,** as enacted by PL 1995, c. 470, §9 and affected by §19, is repealed.

**Sec. AA-60. 22 MRSA §1558, sub-§8, ¶A,** as amended by PL 2005, c. 223, §5, is further amended to read:

A. The District Court shall maintain a record of all fines received by the court. Any fines received must be credited as follows: 1/2 to the Department of Health and Human Services in a nonlapsing account to be used by the department to defray administrative costs of retail tobacco licensing and 1/2 to a nonlapsing account to be used by the Attorney General to support enforcement and responsible retailing education programs. Annually, the court shall report to the ~~Office of Substance~~

~~Abuse department~~ the total amount of fines collected.

**Sec. AA-61. 22 MRSA §1558-A, sub-§2**, as enacted by PL 1995, c. 470, §9 and affected by §19 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

**2. Notice to department.** The District Court shall forward to the department notice of final disposition of all proceedings conducted pursuant to this subchapter. The department shall maintain the records of the proceedings for at least 5 years. ~~Annually, the department shall report a summary of the types and number of cases heard and the dispositions of the cases to the Office of Substance Abuse.~~

**Sec. AA-62. 22 MRSA §2351**, as enacted by PL 2005, c. 430, §5 and affected by §10, is amended to read:

**§2351. Maine Meth Watch Program**

**1. Establishment; purpose.** ~~The Office of Substance Abuse department~~ shall establish the Maine Meth Watch Program to educate retailers, retail employees and the public in order to help curtail suspicious sales and the theft of methamphetamine precursor drugs as defined in Title 17-A, section 1101, subsection 4-A and to identify the location of illicit methamphetamine manufacturing.

**2. Rulemaking.** ~~The Office of Substance Abuse department~~ may adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. AA-63. 22 MRSA §3739, sub-§2, ¶G**, as enacted by PL 1993, c. 158, §2, is amended to read:

G. One employee of the ~~Office of Substance Abuse~~ organizational unit of the department that provides programs and services for substance abuse prevention and treatment, appointed by the ~~Director of the Office of Substance Abuse commissioner~~;

**Sec. AA-64. 22 MRSA §4004-A, sub-§3**, as corrected by RR 2003, c. 2, §77, is amended to read:

**3. Additional parties.** The Department of Corrections, the Department of Education, ~~the Office of Substance Abuse~~ and any other appropriate state agency may be additional parties to the agreement.

**Sec. AA-65. 22 MRSA §7246, sub-§4**, as enacted by PL 2003, c. 483, §1 and amended by c. 689, Pt. B, §6, is repealed.

**Sec. AA-66. 22 MRSA §7247**, as amended by PL 2011, c. 380, Pt. WW, §1, is further amended to read:

**§7247. Controlled Substances Prescription Monitoring Program Fund**

The Controlled Substances Prescription Monitoring Program Fund is established within the ~~office department~~ to be used by the ~~director of the office commissioner~~ to fund or assist in funding the program. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. The fund must be deposited with and maintained and administered by the ~~office department~~. The ~~office commissioner~~ may accept funds into the fund from any source, public or private, including grants or contributions of money or other things of value, that ~~the commissioner~~ determines necessary to carry out the purposes of this chapter. Money received by the ~~office department~~ to establish and maintain the program must be used for the expenses of administering this chapter.

**Sec. AA-67. 22 MRSA §7248**, as enacted by PL 2003, c. 483, §1, is amended to read:

**§7248. Controlled Substances Prescription Monitoring Program**

**1. Establishment of monitoring program.** Contingent upon the receipt of funds pursuant to section 7247 sufficient to carry out the purposes of this chapter, the Controlled Substances Prescription Monitoring Program is established. No later than January 2, 2004, to implement the program, the ~~office department~~ shall establish an electronic system for monitoring any controlled substance that is dispensed to a person in the State by a dispenser.

**2. Contract for services.** The ~~office department~~ may contract with a vendor to establish and maintain the program pursuant to rules adopted by the ~~office department~~.

**3. Information available.** The program must rapidly provide information in an electronic format to prescribers and dispensers.

**Sec. AA-68. 22 MRSA §7249**, as amended by PL 2011, c. 477, Pt. K, §1, is further amended to read:

**§7249. Reporting of prescription monitoring information**

**1. Information required.** Each dispenser shall submit to the ~~office department~~, by electronic means or other format specified in a waiver granted by the ~~office department~~, specific items of information regarding dispensed controlled substances determined by the office from the following list:

- A. The dispenser identification number;
- B. The date the prescription was filled;
- C. The prescription number;
- D. Whether the prescription is new or is a refill;

- E. The National Drug Code (NDC) for the drug dispensed;
- F. The quantity dispensed;
- G. The dosage;
- H. The patient identification number;
- I. The patient name;
- J. The patient address;
- K. The patient date of birth;
- L. The prescriber identification number;
- M. The date the prescription was issued by the prescriber; and
- N. The ~~office-issued~~ department-issued serial number if the ~~office~~ department chooses to establish a serial prescription system.

**2. Frequency.** Each dispenser shall submit the information required under subsection 1 as frequently as specified by the ~~office~~ department.

**3. Waiver.** The ~~office~~ department may grant a waiver of the electronic submission requirement under subsection 1 to any dispenser for good cause, including financial hardship, as determined by the ~~office~~ department. The waiver must state the format and frequency with which the dispenser is required to submit the required information.

**4. Immunity from liability.** A dispenser is immune from liability for disclosure of information if the disclosure was made pursuant to and in accordance with this chapter.

**5. Participation requirements.** If less than 90% of the prescribers in a class of prescribers described in paragraphs A to F are registered in the program on January 1, 2014, then all the members of that class of prescribers shall register in the program by March 1, 2014. The following are the classes of prescribers that are subject to the provisions of this subsection:

- A. Allopathic physicians licensed pursuant to Title 32, chapter 48, subchapter 2;
- B. Osteopathic physicians licensed pursuant to Title 32, chapter 36;
- C. Dentists licensed pursuant to Title 32, chapter 16, subchapter 3;
- D. Physician assistants licensed pursuant to Title 32, chapter 48, subchapter 2;
- E. Podiatrists licensed pursuant to Title 32, chapter 51; and
- F. Advanced practice registered nurses licensed pursuant to Title 32, chapter 31, subchapter 3.

**Sec. AA-69. 22 MRSA §7250**, as amended by PL 2011, c. 218, §§1 to 4, is further amended to read:

**§7250. Access to prescription monitoring information and confidentiality**

**1. Confidentiality.** Except as provided in this section, prescription monitoring information submitted to the ~~office~~ department is confidential and is not a public record as defined in Title 1, section 402, subsection 3.

**2. Review of information.** If the prescription monitoring information surpasses thresholds as established by the ~~office~~ department, the ~~office~~ department shall notify the prescriber, the dispenser and, if the ~~office~~ department determines it to be necessary, the professional licensing entity and provide all relevant prescription monitoring information to those persons and entities through an established letter of notification.

**3. Permissible disclosure of information.** The ~~office~~ department may provide prescription monitoring information for public research, policy or education purposes as long as all information reasonably likely to reveal the patient or other person who is the subject of the information has been removed.

**4. Access to information.** The following persons may access prescription monitoring information:

- A. A prescriber, insofar as the information relates to a patient under the prescriber's care;
- B. A dispenser, insofar as the information relates to a customer of the dispenser seeking to have a prescription filled;
- C. The executive director, or a board investigator as designated by each board, of the state boards of licensure of podiatric medicine, dentistry, pharmacy, medicine, osteopathy, veterinary medicine, nursing or other boards representing health care disciplines whose licensees are prescribers, as required for an investigation, with reasonable cause;
- D. A patient to whom a prescription is written, insofar as the information relates to that patient;
- E. ~~Office~~ Department personnel or personnel of any vendor or contractor, as necessary for establishing and maintaining the program's electronic system;
- F. The Office of Chief Medical Examiner for the purpose of conducting an investigation or inquiry into the cause, manner and circumstances of death in a medical examiner case as described in section 3025. Prescription monitoring information in the possession or under the control of the Office of Chief Medical Examiner is confidential and, notwithstanding section 3022, may not be disseminated. Information that is not prescription monitoring information and is separately acquired following access to prescription monitoring information pursuant to this paragraph remains subject to

protection or dissemination in accordance with section 3022;

G. The office that administers the MaineCare program pursuant to chapter 855 for the purposes of managing the care of its members, monitoring the purchase of controlled substances by its members and avoiding duplicate dispensing of controlled substances; and

H. Another state pursuant to subsection 4-A.

**4-A. Information sharing with other states.**

The ~~office department~~ may provide prescription monitoring information to and receive prescription monitoring information from another state that has prescription monitoring information provisions consistent with this chapter and has entered into a prescription monitoring information sharing agreement with the ~~office department~~. The ~~office department~~ may enter into a prescription monitoring information sharing agreement with another state to establish the terms and conditions of prescription monitoring information sharing and interoperability of information systems and to carry out the purposes of this subsection. For ~~purpose purposes~~ of this subsection, "another state" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country.

**5. Purge of information.** The ~~office department~~ shall purge from the program all information that is more than 6 years old.

**Sec. AA-70. 22 MRSA §7251, sub-§1,** as enacted by PL 2003, c. 483, §1, is amended to read:

**1. Failure to submit information.** A dispenser who knowingly fails to submit prescription monitoring information to the ~~office department~~ as required by this chapter is subject to discipline by the Maine Board of Pharmacy pursuant to Title 32, chapter 117, subchapter 4 or by the applicable professional licensing entity.

**Sec. AA-71. 22 MRSA §7252,** as enacted by PL 2003, c. 483, §1, is amended to read:

**§7252. Rulemaking**

The ~~office department~~ may adopt rules necessary to implement the provisions of this chapter. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. AA-72. 26 MRSA §683, sub-§1, ¶B,** as amended by PL 1995, c. 283, §1, is further amended to read:

B. The employee assistance program must be certified by the ~~Office of Substance Abuse Department of Health and Human Services~~ under rules adopted pursuant to section 687. The rules must ensure that the employee assistance programs

have the necessary personnel, facilities and procedures to meet minimum standards of professionalism and effectiveness in assisting employees.

**Sec. AA-73. 26 MRSA §687, sub-§1,** as amended by PL 1995, c. 283, §2, is further amended to read:

**1. Department of Health and Human Services.**

The ~~Office of Substance Abuse~~ Department of Health and Human Services shall adopt rules under the Maine Administrative Procedure Act, ~~Title 5, chapter 375,~~ as provided in this subchapter.

**Sec. AA-74. 26 MRSA §688,** as amended by PL 1995, c. 283, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**§688. Substance abuse education**

All employers shall cooperate fully with the Department of Labor, ~~Office of Substance Abuse,~~ the Department of Health and Human Services, the Department of Public Safety and any other state agency in programs designed to educate employees about the dangers of substance abuse and about public and private services available to employees who have a substance abuse problem.

**Sec. AA-75. 28-A MRSA §1703, sub-§5,** as amended by PL 1997, c. 373, §144, is further amended to read:

**5. Appropriation.** The amount of funds appropriated from the General Fund to the ~~Office of Substance Abuse, as established in Title 5, chapter 521,~~ Department of Health and Human Services for substance abuse prevention and treatment may not be less than the dollar amount collected or received by the alcohol bureau and bureau under this section.

**Sec. AA-76. 28-A MRSA §2519, sub-§2, ¶D,** as amended by PL 1999, c. 519, §2, is further amended to read:

D. A representative of the ~~Office of Substance Abuse~~ Department of Health and Human Services;

**Sec. AA-77. 29-A MRSA §2401, sub-§1,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**1. Alcohol and drug program.** "Alcohol and drug program" means the alcohol and other drug education, evaluation and treatment program administered by the ~~Office of Substance Abuse~~ Department of Health and Human Services under Title 5, chapter 521, subchapter ~~5.~~

**Sec. AA-78. 29-A MRSA §2411, sub-§5, ¶F,** as amended by PL 2001, c. 511, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

F. For a person sentenced under paragraph B, C or D, the court shall order the defendant to par-

ticipate in the alcohol and other drug program of the Department of Health and Human Services, ~~Office of Substance Abuse~~. The court may waive the program pursuant to Title 5, section 20073-B, if the court finds that the defendant has completed an alcohol or other drug treatment program subsequent to the date of the offense; and

**Sec. AA-79. 29-A MRSA §2455, sub-§3,** ~~¶A~~, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. Satisfactory completion of the Driver Education and Evaluation Programs of the ~~Office of Substance Abuse~~ Department of Health and Human Services;

**Sec. AA-80. 29-A MRSA §2472, sub-§6,** as amended by PL 2001, c. 511, §6, is further amended to read:

**6. Restoration of license.** If a person's license has been suspended under subsection 3 for a first offense, the Secretary of State may issue a license if:

A. One half of the suspension period has expired; and

B. The Secretary of State has received notice that the person has completed the alcohol and other drug program of the ~~Office of Substance Abuse~~ Department of Health and Human Services.

A 2nd or subsequent offender may be issued a license following the completion of the period of suspension ~~provided if~~ the Secretary of State has received notice that the person has completed the alcohol and other drug program of the ~~Office of Substance Abuse~~ Department of Health and Human Services.

**Sec. AA-81. 29-A MRSA §2502,** as amended by PL 2011, c. 335, §11, is further amended to read:

**§2502. Special licenses for driver education evaluation program; suspension**

**1. Issuance of special license.** Following the expiration of the total period of suspension imposed on a first-time offender pursuant to Title 15, section 3314 or sections 2411, 2453, 2453-A, 2472 and 2521, the Secretary of State shall issue a special license or permit to the person if the Secretary of State receives written notice that the person has completed the assessment components of the alcohol and other drug program pursuant to Title 5, section 20073-B. First offenders who have registered for the completion of treatment programs as described in Title 5, section 20072, subsection 2 are entitled to receive a special license after completion of 3 treatment sessions provided by a counselor or agency approved by the ~~Office of Substance Abuse~~ Department of Health and Human Services. A special license or permit may not be issued under this section to 2nd and subsequent offenders.

**2. Suspension of special license.** If the person refuses or fails to complete the alcohol and other drug program pursuant to Title 5, section 20073-B within 3 months after receiving a special license, the Secretary of State, following notice of that refusal or failure, shall suspend the special license until the person completes the program. The suspension must continue until the Secretary of State receives written notification from the ~~Office of Substance Abuse~~ Department of Health and Human Services that the person has satisfactorily completed all required components of that program. The Secretary of State shall provide notice of suspension and opportunity for hearing pursuant to Title 5, chapter 375, subchapter 4. The sole issue at the hearing is whether the person has written notification from the ~~Office of Substance Abuse~~ Department of Health and Human Services establishing that the person has satisfactorily completed all components of that program pursuant to Title 5, section 20073-B.

**Sec. AA-82. 29-A MRSA §2505,** as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

**§2505. Special restricted license for participation in education and treatment programs**

Notwithstanding other limitations, the Secretary of State may issue a restricted license to a person for the purpose of allowing that person to participate in an alcohol and drug program or other treatment program determined appropriate by the ~~Office of Substance Abuse~~ Department of Health and Human Services.

**Sec. AA-83. 32 MRSA §6212, sub-§2,** as amended by PL 2007, c. 402, Pt. U, §7, is further amended to read:

**2. Adopt criteria.** The board, in cooperation with the ~~Office of Substance Abuse~~ Department of Health and Human Services, may design, adopt or design and adopt an examination or other suitable criteria for establishing a candidate's knowledge, skill and experience in alcohol and drug counseling. Any criteria adopted by the board for establishing a candidate's knowledge, skill and experience in alcohol and drug counseling must be clearly defined, have an established baseline scoring procedure that is objectively measured, be in writing and be available to the public upon request.

**Sec. AA-84. 32 MRSA §13795, sub-§5,** as amended by PL 2007, c. 695, Pt. B, §18, is further amended to read:

**5. Rulemaking.** The ~~Director of the Office of Substance Abuse within the Department~~ Commissioner of Health and Human Services may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

A. If the Director of the Maine Drug Enforcement Agency within the Department of Public Safety finds that the ease of availability of liquid, liquid-filled capsule or glycerin matrix forms of products containing ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients, referred to in this paragraph as "products," is a threat to the public health, safety and welfare, then the Director of the Maine Drug Enforcement Agency shall notify the ~~Director of the Office of Substance Abuse~~ Commissioner of Health and Human Services. The ~~Director of the Office of Substance Abuse~~ Commissioner of Health and Human Services shall consult with the joint standing committee of the Legislature having jurisdiction over health and human services matters, providing the reasons for undertaking rulemaking, and may, after consultation, adopt rules designating the products as targeted methamphetamine precursors pursuant to section 13702-A, subsection 33, paragraph B.

B. If the Director of the Maine Drug Enforcement Agency finds that sales of targeted methamphetamine precursors that are made without verifying the identity of the purchaser pose a threat to public health, safety and welfare, then the Director of the Maine Drug Enforcement Agency shall notify the ~~Director of the Office of Substance Abuse~~ Commissioner of Health and Human Services. The ~~Director of the Office of Substance Abuse~~ Commissioner of Health and Human Services shall consult with the joint standing committee of the Legislature having jurisdiction over health and human services matters, providing the reasons for undertaking rulemaking, and may, after consultation, adopt rules requiring a person making a sale of a targeted methamphetamine precursor pursuant to section 13796 to demand from the purchaser and to inspect and record prior to the sale proof of identification, including valid photographic identification, and to keep a log of sales.

**Sec. AA-85. 34-B MRSA §1219, sub-§1**, as enacted by PL 1995, c. 431, §2 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

**1. Development of state strategy.** The department shall develop a comprehensive state strategy for preventing the inappropriate incarceration of seriously mentally ill individuals and for diverting those individuals away from the criminal justice system. This strategy must be developed with the active participation of other agencies and providers responsible for serving persons with serious mental illness, including: ~~the Department of Health and Human Services; the Department of Corrections; the Department of Health and Human Services, Bureau of Medical Services; and~~ representatives of community mental health centers,

area shelters, other community providers, consumers of services and their families, providers of inpatient mental health services, advocates for consumers of mental health services, sheriffs' departments, ~~the Office of Substance Abuse~~ and the Department of Public Safety.

**Sec. AA-86. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 5, chapter 521, in the chapter headnote, the words "office of substance abuse" are amended to read "substance abuse prevention and treatment" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

## PART BB

**Sec. BB-1. 5 MRSA §1591, sub-§2, ¶A**, as amended by PL 2011, c. 380, Pt. UUU, §1, is further amended to read:

A. Any balance remaining in the accounts of the Department of Health and Human Services, ~~Bureau of Elder and Adult Services~~ appropriated for the purposes of homemaker or home-based care services at the end of any fiscal year to be carried forward for use by either program in the next fiscal year;

**Sec. BB-2. 22 MRSA §3174-I, sub-§1, ¶B-1**, as enacted by PL 1995, c. 170, §2, is amended to read:

B-1. For persons with severe cognitive impairments who have been assessed and found ineligible for nursing facility level care, the department, through ~~the Bureau of Elder and Adult Services;~~ its community options unit, shall review the assessment and provide case management to assist consumers and caregivers to receive appropriate services.

**Sec. BB-3. 22 MRSA §3472, sub-§2-A**, as amended by PL 2003, c. 653, §2 and c. 689, Pt. B, §6, is repealed.

**Sec. BB-4. 22 MRSA §5104, sub-§2**, as amended by PL 1989, c. 329, §8 and PL 2003, c. 689, Pt. B, §6, is repealed.

**Sec. BB-5. 22 MRSA §5104, sub-§4**, as repealed and replaced by PL 1973, c. 793, §3, is repealed.

**Sec. BB-6. 22 MRSA §5104, sub-§6**, as amended by PL 1989, c. 329, §10 and PL 2003, c. 689, Pt. B, §6, is repealed.

**Sec. BB-7. 22 MRSA §5104-A**, as enacted by PL 1973, c. 793, §4, is amended to read:

### §5104-A. State agencies to cooperate

State agencies shall cooperate fully with the ~~bureau and committee~~ department in carrying out this

Part. The ~~bureau and committee~~ are department is authorized to request such personnel, financial assistance, facilities and data as are reasonably required to assist ~~the bureau and committee~~ it to fulfill ~~their~~ its powers and duties.

State agencies proposing to develop, establish, conduct or administer programs or to assist programs relating to this Part shall, prior to carrying out such actions, consult with the ~~bureau~~ department.

All agencies of State Government shall advise the ~~bureau~~ department of their proposed administrative fiscal and legislative activities relating to this Part.

State agencies, in the implementation of their activities relating to this Part, shall keep the ~~bureau~~ department fully informed of their progress.

**Sec. BB-8. 22 MRSA §5105**, as amended by PL 2007, c. 539, Pt. N, §39, is repealed.

**Sec. BB-9. 22 MRSA §5106**, as amended by PL 2011, c. 542, Pt. A, §§39 and 40, is further amended to read:

#### **§5106. Powers and duties**

The ~~bureau~~ department shall establish, in accordance with the purposes and intent of this Part, ~~with the advice of the committee and subject to the direction of the commissioner~~, the overall planning, policy, objectives and priorities for all functions and activities conducted or supported in the State ~~which that~~ relate to Maine's aging population and incapacitated and dependent adults. In order to carry out the above, the ~~bureau shall have~~ department has the power and duty to:

**1. Encourage and assist development.** Encourage and assist development of more coordinated use of existing and new resources and services relating to Maine's aging population and incapacitated and dependent adults;

**2. Information system.** Develop and maintain an up-to-date information system related to Maine's aging population and incapacitated and dependent adults. The information ~~shall~~ must be available for use by the people of Maine, the political subdivisions, public and private nonprofit agencies and the State. Educational materials ~~shall~~ must be prepared, published and disseminated. Objective devices and research methodologies ~~shall~~ must be continuously developed. Maintaining statistical information through uniform methods ~~which that~~ are reasonably feasible and economically efficient ~~shall~~ must be specified for use by public and private agencies, organizations and individuals. Existing sources of information ~~shall~~ must be used to the fullest extent possible, while maintaining confidentiality safeguards of state and federal law. Information may be requested and ~~shall be~~ received from any ~~State Government~~ state government or public or private agency. To the extent reasonable

and feasible, information ~~shall~~ must maintain compatibility with federal information sharing standards.

Functions of this information system ~~shall~~ include, but are not be limited to:

A. Conducting research on the causes and nature of problems relating to Maine's aging population and incapacitated and dependent adults;

B. Collecting, maintaining and disseminating such knowledge, data and statistics related to Maine's aging population and incapacitated and dependent adults as will enable the ~~bureau~~ department to fulfill its responsibilities;

C. Determining through a detailed survey the extent of problems relating to Maine's aging population and incapacitated and dependent adults and the needs and priorities for solving such problems in the state and political subdivisions;

D. Maintaining an inventory of the types and quantity of facilities, programs and services operated under public or private auspices for Maine's aging population and incapacitated and dependent adults. This function ~~shall~~ must include: ~~The~~ the unduplicated count, location and characteristics of people served by each facility, program or service; and the amount, type and source of resources supporting functions related to Maine's aging population and incapacitated and dependent adults; and

E. Conducting a continuous evaluation of the impact, quality and value of facilities, programs and services, including their administrative adequacy and capacity. Activities operated by or with the assistance of the State and ~~the Federal Government~~ Government must be evaluated. Activities to be included, but to which the ~~bureau~~ department is not limited, are those relating to education, employment and vocational services, income, health, housing, transportation, community, social, rehabilitation, protective services and public guardianship or conservatorship for older people and incapacitated and dependent adults and programs such as the supplemental security income program, Medicare, Medicaid, property tax refunds and the setting of standards for the licensing of nursing, intermediate care and boarding homes. Included are activities as authorized by this and so much of the several Acts and amendments to them enacted by the people of the State and those authorized by United States Acts and amendments to them such as the:

(1) Elderly Householders Tax and Rent Refund Act of 1971;

(2) Priority Social Services Act of 1973;

(3) Chapter 470 of the public laws of 1969 creating the State Housing Authority;

- (4) United States Social Security Act of 1935;
- (5) United States Housing Act of 1937;
- (6) United States Older Americans Act of 1965;
- (7) United States Age Discrimination Act of 1967;
- (8) Home Based Care Act of 1981;
- (9) Congregate Housing Act of 1979;
- (10) Adult Day Care Services Act of 1983;
- (11) Adult Day Care Licensing Act of 1987;
- (12) Adult Protective Services Act of 1981;
- (13) The Uniform Probate Code, Title 18-A;
- (14) The Americans with Disabilities Act of 1990;
- (15) The Developmental Disabilities Assistance and Bill of Rights Act of 2000; and
- (16) The ADA Amendments Act of 2008;

**3. Coordination of efforts.** Assist, ~~with the advice of the committee,~~ the Legislative and Executive Branches of State Government, especially the Governor, ~~Commissioner of Health and Human Services and the~~ Bureau of the Budget, to coordinate all State Government efforts relating to Maine's aging population and incapacitated and dependent adults, by:

A. Submitting to each branch of State Government no later than September 1st of each year an annual report covering its activities for the immediately past fiscal year and future plans, including recommendations for changes in state and federal laws, ~~and including reports of the committee;~~

B. Reviewing all proposed legislation, fiscal activities, plans, policies and other administrative functions relating to Maine's aging population and incapacitated and dependent adults made by or requested of all state agencies. The ~~bureau shall have~~ department has the authority to submit to those bodies findings, comments and recommendations, which ~~shall be~~ are advisory. Such findings and comments ~~shall must~~ must recommend what modification in proposals or actions ~~shall be taken~~ is required to make proposed legislation, fiscal activities and administrative activities consistent with such policies and priorities; and

C. Making recommendations to the respective branches of State Government related to improving the quality of life of Maine's aging population and incapacitated and dependent adults, and shall consult with and be consulted by all responsible state agencies regarding the policies, priorities and objectives of functions related to Maine's aging

population and incapacitated and dependent adults;

**4. Comprehensive state plan.** Prepare and administer a comprehensive state plan relating to Maine's aging population and incapacitated and dependent adults, developed by the ~~bureau with the advice of the committee and department~~ subject to the direction of the commissioner. The comprehensive state plan ~~shall~~ must be implemented for the purpose of coordinating all activities and of assuring compliance with applicable state and federal laws and regulations relating to Maine's aging population and incapacitated and dependent adults. Implementation of this duty ~~shall mean means~~ that the ~~bureau shall have~~ department has the authority, through a review process, to advise on the preparation and administration of any portion of any state plan relating to Maine's aging population and incapacitated and dependent adults, prepared and administered by any agency of State Government for submission to the Federal Government to obtain federal funding under federal legislation. Such state plans, or portions thereof, ~~shall~~ must include, but ~~are~~ are not ~~be~~ limited to, all state plans dealing with education, employment and vocational services, income, health, housing, protective services, public guardianship and conservatorship, rehabilitation, social services, transportation and welfare. The ~~bureau~~ department shall advise the commissioner and Governor on preparation of and provisions to be included in such plans relating to Maine's aging population and incapacitated and dependent adults;

**5. Programs.** Plan, establish and maintain necessary or desirable programs for individuals or groups of individuals. The ~~bureau~~ department may use the full range of its powers and duties to serve Maine's aging population and incapacitated and dependent adults through indirect services provided by agreement and through direct services provided by state employees;

**6. Organizational unit.** Function as the organizational unit of State Government with sole responsibility for conducting and coordinating, ~~with the advice of the committee and~~ subject to the direction of the commissioner, programs authorized by this Part and so much of the several Acts, amendments and successors to them enacted by the people of the State and those authorized by the United States Acts, amendments and successors to them as relate to Maine's aging population and incapacitated and dependent adults:

A. The 1973 Act of Maine's Elderly;

B. The Priority Social Service Act of 1973, including only meals for older people, transportation for older people and coordinated elderly programs;

C. The United States Older Americans Act of 1965; and

D. Adult Protective Services Act of 1981.

The bureau department is designated as the single agency of State Government solely responsible for administering, subject to the direction of the commissioner, any state plans as may be required by the above Acts, and for administering programs of Acts of the State or United States relating to Maine's aging population and incapacitated and dependent adults ~~which~~ that are not the specific responsibility of another state agency under state or federal law;

**7. Mobilize resources.** Help communities mobilize their resources to benefit Maine's aging population and incapacitated and dependent adults. The bureau department shall provide or coordinate the provision of information, technical assistance and consultation to state, regional and local governments, and to public and private nonprofit agencies, institutions, organizations and individuals. The help ~~shall be~~ is for the purpose of encouraging, developing and assisting with the initiation, establishment and administration of any plans, programs or services with a view to the establishment of a statewide network of comprehensive, coordinated services and opportunities for Maine's aging population and incapacitated and dependent adults. Included in this duty is authority to coordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in Maine's aging population and incapacitated and dependent adults;

**8. Funds.** Seek and receive funds from the Federal Government and private sources to further its activities. Included in this function is authority to solicit, accept, administer, disburse and coordinate for the State in accordance with the intent, objectives and purposes of this Part; and within any limitation ~~which~~ that may apply from the sources of such funds, the efforts to obtain and the use of any funds from any source to benefit Maine's aging population and incapacitated and dependent adults. Any gift of money or property made by will or otherwise, and any grant or other funds appropriated, services or property available from the Federal Government, the State or any political subdivision thereof and from all other sources, public or private, may be accepted and administered. The bureau department may do all things necessary to cooperate with the Federal Government or any of its agencies in making application for any funds. Included in this duty is authority to advise regarding the disbursement of all state funds, or funds administered through agencies of State Government, appropriated or made available to benefit Maine's aging population and incapacitated and dependent adults;

**9. Agreements.** Enter into agreements necessary or incidental to the performance of its duties. Included is the power to make agreements with qualified community, regional and state level, private nonprofit and public agencies, organizations and individuals in this

and other states to develop or provide facilities, programs and services for Maine's aging population and incapacitated and dependent adults. Agreements with such agencies, organizations and individuals ~~shall~~ may be executed only with agencies reviewed by ~~the committee pursuant to section 5112, subsection 4, and the area agency pursuant to section 5116, subsection 1, paragraph B.~~ The bureau department may engage expert advisors and assistants, who may serve without compensation or may be compensated to the extent funds may be available by appropriation, grant or allocation from a state department. The bureau department may pay for such expert advisors or assistants;

**10. Rules.** Prepare, adopt, amend, rescind and administer, ~~with the advice of the committee and~~ subject to the direction of the commissioner, policies, priorities, procedures, ~~and rules and regulations~~ to govern its affairs and the development and operation of facilities, programs and services. The bureau department may adopt rules to carry out the powers and duties pursuant to this Part and in accordance with the purpose and objectives of this Part. It shall especially adopt such rules ~~and regulations~~ as may be necessary to define contractual terms, conditions of agreements and all other rules as are necessary for the proper administration of this Part. Such adoption, amendment and rescission ~~shall~~ must be made as provided under the Maine Administrative Procedure Act, ~~Title 5, chapter 375;~~

**11. Educational program.** Develop and implement, as an integral part of programs, an educational program. ~~Assist;~~ assist in the development of, and cooperation with, educational programs for employees of state and local governments and businesses and industries in the State. ~~Convene; and convene~~ and conduct conferences of public and private nonprofit organizations concerned with the development and operation of programs for Maine's aging population and incapacitated and dependent adults. Included ~~shall~~ be ~~is~~ the power to sponsor ~~in cooperation with the committee~~ the Blaine House Conference on Aging;

**11-A. Elderly Legal Services Program.** Support and maintain an Elderly Legal Services Program, by agreement with such nonprofit organization as the bureau department finds best able to provide direct services to those of Maine's elderly in greatest economic and social need throughout the State;

**11-B. Adult protective services.** Administer a program of protective services as provided in chapter 958-A designed to protect incapacitated and dependent adults from abuse, neglect, exploitation and physical danger. The program is described in the Adult Protective Services Act;

**11-C. Long-term care ombudsman program.** Support and maintain a long-term care ombudsman program, in accordance with the federal 1987 Older Americans Act, 42 United States Code, as amended,

by agreement with such nonprofit organization as the ~~bureau~~ department finds best able to provide the services;

**12. Training programs.** Foster, develop, organize, conduct or provide for the conduct of training programs for persons in the field of serving Maine's aging population and incapacitated and dependent adults;

**13. Coordinate activities.** Coordinate activities and cooperate with programs in this and other states for the common advancement of programs for Maine's aging population and incapacitated and dependent adults; and

~~**14. Establish and maintain an office.** Establish and maintain an office; and~~

**15. Duties.** Do such other acts and exercise such other powers necessary or convenient to execute and carry out the purposes and authority expressly granted in this Part.

**Sec. BB-10. 22 MRSA §5304, sub-§3,** as amended by PL 1989, c. 329, §19 and PL 2003, c. 689, Pt. B, §6, is repealed.

**Sec. BB-11. 22 MRSA §5304, sub-§9,** as amended by PL 1989, c. 329, §20 and PL 2003, c. 689, Pt. B, §6, is repealed.

**Sec. BB-12. 22 MRSA §6108,** as amended by PL 1989, c. 329, §21 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**§6108. Administration of priority social services for Maine's elderly**

The ~~Bureau of Elder and Adult Services~~, Department of Health and Human Services or its successors, is designated as the organizational unit of State Government with sole responsibility for administrating, ~~with the advice of the Maine Committee on Aging,~~ and subject to the direction of the commissioner, so much of the Priority Social Services Program as relates directly to older people, such as, but not limited to, these types of social services: ~~Meals~~ meals for older people, transportation for older people and health and home care needs for the elderly.

Regarding priority social services for older people, the ~~Bureau of Elder and Adult Services~~ shall have department has the powers and duty to:

**1. Administer priority social services.** Administer priority social services in accordance with the intent, objectives and purposes of this Part and ~~shall have~~ has, in any respects that relate to these priority social services, the powers and duties set forth in section 5310; and

**2. Action to ensure consistency of priority social services.** Prepare, adopt, amend, rescind and administer, ~~with the advice of the Maine Committee on Aging,~~ policies, priorities, procedures; and rules and

regulations. The ~~Bureau of Elder and Adult Services~~ department and the Department of Administrative and Financial Services, Bureau of Human Resources, respectively, shall take, pertaining to their own policies, priorities, procedures; and rules and regulations, such action as is necessary to ~~insure~~ ensure that such items pertinent to priority social services are consistent.

**Sec. BB-13. 22 MRSA §6202, sub-§5,** as amended by PL 1989, c. 347, §5 and c. 878, Pt. B, §19; and PL 2003, c. 689, Pt. B, §6, is repealed.

**Sec. BB-14. 22 MRSA §7861, first ¶,** as enacted by PL 2001, c. 596, Pt. A, §1 and affected by Pt. B, §25 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

The Department of Health and Human Services, ~~Bureau of Elder and Adult Services~~, with advice from the Maine State Housing Authority, the Rural Housing Services or any other housing agency financing assisted housing programs, shall administer state-funded assisted housing programs. Administration must include, but is not limited to:

**Sec. BB-15. 36 MRSA §6220,** as amended by PL 1997, c. 668, §40, is further amended to read:

**§6220. Coordination required**

The bureau shall seek the advice and cooperation of the ~~Bureau of Elder and Adult~~ Department of Health and Human Services; ~~the Bureau of Family Independence; the Bureau of Child and Family Services;~~ advocates for elderly and low-income individuals; and other interested agencies and organizations in developing the application form and instruction booklet for the Maine Residents Property Tax Program and the outreach plan required by section 6219.

**Sec. BB-16. 38 MRSA §1652, sub-§3,** as amended by PL 1989, c. 878, Pt. B, §43, is further amended to read:

**3. Meals on wheels.** A food service funded in whole or in part, directly or indirectly, by the ~~Bureau of Elder and Adult~~ Department of Health and Human Services to provide meals at dispersed locations from central kitchen facilities is exempt.

**Sec. BB-17. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 22, chapter 1453, in the chapter headnote, the words "bureau of elder and adult services" are amended to read "elder and adult services" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**PART CC**

**Sec. CC-1. 34-B MRSA §5439, sub-§1, ¶C,** as reallocated by PL 2007, c. 695, Pt. A, §41, is repealed.

**Sec. CC-2. 34-B MRSA §5439, sub-§§2 to 4**, as reallocated by PL 2007, c. 695, Pt. A, §41, are amended to read:

**2. Program administration.** The ~~office commissioner~~ shall administer the program under this section. Within available funds, the ~~office commissioner~~ shall ensure that services are delivered in the most comprehensive manner possible and shall strive to maximize the participation of adults with disabilities.

**3. Eligibility.** An applicant is eligible for personal care assistance services under the program if the ~~office commissioner~~ or ~~its~~ the commissioner's designee determines that the person is an adult who:

- A. Has a severe disability;
- B. Needs personal care assistance services or an attendant at night or both to prevent or remove the adult from inappropriate placement in an institutional setting; and
- C. Has no or insufficient personal income or other support from public services, family members or neighbors.

**4. Consumer cost sharing.** The ~~office commissioner~~ shall establish a sliding scale for consumer cost sharing for services provided under the program. The sliding scale must be based on the net income of the consumer, factoring in the expenses associated with the consumer's disability, and may take assets into consideration.

**Sec. CC-3. 34-B MRSA §5439, sub-§5, ¶B**, as reallocated by PL 2007, c. 695, Pt. A, §41, is amended to read:

B. For each applicant or consumer evaluated by an evaluation team, the team shall assist the ~~office department~~ to:

- (1) Determine the eligibility of the applicant or consumer for services under the program;
- (2) Determine the capability of the applicant or consumer, at the time of evaluation or after skills training provided pursuant to subsection 6, to hire and direct a personal care assistant; and
- (3) Reevaluate the applicant or consumer periodically to determine continuing need for the services.

**Sec. CC-4. 34-B MRSA §19001, sub-§§1 and 3**, as enacted by PL 2007, c. 239, §2, are amended to read:

**1. Council established.** The Acquired Brain Injury Advisory Council, referred to in this section as "the council," is established to provide independent oversight and advice and to make recommendations to the commissioner, ~~the Director of the Office of Adults with Cognitive and Physical Disability Services within~~

~~the department, the Director of the Maine Center for Disease Control and Prevention within the department and the Director of the Office of MaineCare Services within the department.~~

**3. Administrative support.** The ~~manager of brain injury services in the Office of Adults with Cognitive and Physical Disability Services within the department~~ shall provide administrative support to the council.

**PART DD**

**Sec. DD-1. 34-B MRSA §3861, sub-§3, ¶B**, as enacted by PL 2007, c. 580, §2, is amended to read:

B. The provisions of this paragraph apply to the appointment, duties and procedures of the clinical review panel under paragraph A.

(1) Within one business day of receiving a request under paragraph A, the superintendent of a state mental health institute or chief administrative officer of a designated non-state mental health institution or that person's designee shall appoint a clinical review panel of 2 or more licensed professional staff who do not provide direct care to the patient. At least one person must be a professional licensed to prescribe medication relevant to the patient's care and treatment. At the time of appointment of the clinical review panel, the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution or that person's designee shall notify the following persons in writing that the clinical review panel will be convened:

- (a) The primary treating physician;
- (b) ~~The director of the Office of Adult Mental Health Services within the department or that person's commissioner or the commissioner's designee;~~
- (c) The patient's designated representative or attorney, if any;
- (d) The State's designated federal protection and advocacy agency; and
- (e) The patient. Notice to the patient must inform the patient that the clinical review panel will be convened and of the right to assistance from a lay advisor, at no expense to the patient, and the right to obtain an attorney at the patient's expense. The notice must include contact information for requesting assistance from a lay advisor, who may be employed by the institute or institution, and access to a telephone to contact a lay advisor must be provided to the patient.

(2) Within 4 days of receiving a request under paragraph A and no less than 24 hours before the meeting of the clinical review panel, the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution or that person's designee shall provide notice of the date, time and location of the meeting to the patient's primary treating physician, the patient and any lay advisor or attorney.

(3) The clinical review panel shall hold the meeting and any additional meetings as necessary, reach a final determination and render a written decision ordering or denying involuntary treatment.

(a) At the meeting, the clinical review panel shall receive information relevant to the determination of the patient's capacity to give informed consent to treatment and the need for treatment, review relevant portions of the patient's medical records, consult with the physician requesting the treatment, review with the patient that patient's reasons for refusing treatment, provide the patient and any lay advisor or attorney an opportunity to ask questions of anyone presenting information to the clinical review panel at the meeting and determine whether the requirements for ordering involuntary treatment have been met.

(b) All meetings of the clinical review panel must be open to the patient and any lay advisor or attorney, except that any meetings held for the purposes of deliberating, making findings and reaching final conclusions are confidential and not open to the patient and any lay advisor or attorney.

(c) The clinical review panel shall conduct its review in a manner that is consistent with the patient's rights.

(d) Involuntary treatment may not be approved and ordered if the patient affirmatively demonstrates to the clinical review panel that if that patient possessed capacity, the patient would have refused the treatment on religious grounds or on the basis of other previously expressed convictions or beliefs.

(4) The clinical review panel may approve a request for involuntary treatment and order the treatment if the clinical review panel finds, at a minimum:

(a) That the patient lacks the capacity to make an informed decision regarding treatment;

(b) That the patient is unable or unwilling to comply with the proposed treatment;

(c) That the need for the treatment outweighs the risks and side effects; and

(d) That the proposed treatment is the least intrusive appropriate treatment option.

(5) The clinical review panel may make additional findings, including but not limited to findings that:

(a) Failure to treat the illness is likely to produce lasting or irreparable harm to the patient; or

(b) Without the proposed treatment the patient's illness or involuntary commitment may be significantly extended without addressing the symptoms that cause the patient to pose a likelihood of serious harm.

(6) The clinical review panel shall document its findings and conclusions, including whether the potential benefits of the proposed treatment outweigh the potential risks.

**Sec. DD-2. 34-B MRSA §3861, sub-§3, ¶D,** as enacted by PL 2007, c. 580, §2, is amended to read:

D. If the clinical review panel under paragraph A approves the request for involuntary treatment, the clinical review panel shall enter an order for the treatment in the patient's medical records and immediately notify the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution. The order takes effect:

(1) For a patient at a state mental health institute, one business day from the date of entry of the order; or

(2) For a patient at a designated nonstate mental health institution, one business day from the date of entry of the order, except that if the patient has requested review of the order by the ~~director of the Office of Adult Mental Health Services within the department commissioner~~ under paragraph F, subparagraph (2), the order takes effect one business day from the day on which the ~~director commissioner or the commissioner's designee~~ issues a written decision.

**Sec. DD-3. 34-B MRSA §3861, sub-§3, ¶E,** as enacted by PL 2007, c. 580, §2, is amended to read:

E. The order for treatment under this subsection remains in effect for 120 days or until the end of the period of commitment, whichever is sooner, unless altered by:

- (1) An agreement to a different course of treatment by the primary treating physician and patient;
- (2) For a patient at a designated nonstate mental health institution, modification or vacation of the order by the ~~director of the Office of Adult Mental Health Services within the department~~ commissioner or the commissioner's designee; or
- (3) An alteration or stay of the order entered by the Superior Court after reviewing the entry of the order by the clinical review panel on appeal under paragraph F.

**Sec. DD-4. 34-B MRSA §3861, sub-§3, ¶F,** as enacted by PL 2007, c. 580, §2, is amended to read:

F. The provisions of this paragraph apply to the review and appeal of an order of the clinical review panel entered under paragraph B.

- (1) The order of the clinical review panel at a state mental health institute is final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.
- (2) The order of the clinical review panel at a designated nonstate mental health institution may be reviewed by the ~~director of the Office of Adult Mental Health Services within the department or the designee of the director~~ commissioner or the commissioner's designee upon receipt of a written request from the patient submitted no later than one day after the patient receives the order of the clinical review panel. Within 3 business days of receipt of the request for review, the ~~director or commissioner or the commissioner's~~ designee shall review the full clinical review panel record and issue a written decision. The decision of the ~~director or commissioner or the commissioner's~~ designee may affirm the order, modify the order or vacate the order. The decision of the ~~director or commissioner or the commissioner's~~ designee takes effect one business day after the ~~director or commissioner or the commissioner's~~ designee issues a written decision. The decision of the ~~director or commissioner or the commissioner's~~ designee is final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

**PART EE**

**Sec. EE-1. 22 MRSA §7924, sub-§1,** as amended by PL 2009, c. 1, Pt. S, §1, is further amended to read:

**1. Alleged violations reported and investigated.** Any person who believes that any of those rules governing the licensure of long-term care facilities or the operation of assisted living programs and services authorized pursuant to section 7853 adopted by the department pertaining to residents' rights and conduct of resident care has been violated may report the alleged violation to the protection and advocacy agency designated pursuant to Title 5, section ~~19501-19502~~; the long-term care ombudsman pursuant to section 5106, subsection 11-C and section 5107-A; ~~the Office of Advocacy pursuant to Title 34-B, section 5005~~; and any other agency or person whom the commissioner may designate.

**Sec. EE-2. 34-B MRSA §1223, sub-§9, ¶F,** as enacted by PL 2007, c. 356, §7 and affected by c. 695, Pt. D, §3, is amended to read:

F. The board may refer individual cases that require investigation or action to the ~~Office of Adults with Cognitive and Physical Disability Services or the Office of Advocacy within the department~~, the protection and advocacy agency designated pursuant to Title 5, section 19502 or other appropriate agency.

**Sec. EE-3. 34-B MRSA §1223, sub-§10, ¶B,** as amended by PL 2011, c. 542, Pt. A, §68, is further amended to read:

B. ~~The chief advocate and the manager of adult protective services in the Office of Adults with Cognitive and Physical Disability Services within advocacy agency designated pursuant to Title 5, section 19502, or the department, when requested by the board or pursuant to a written agreement with the board, shall release to the board information pertaining to alleged abuse, exploitation or neglect or alleged dehumanizing practice or violation of rights of a person with intellectual disabilities or autism. The board shall maintain the confidentiality of information disclosed to it or discovered by it as required by section 1207.~~

**Sec. EE-4. 34-B MRSA §5005,** as amended by PL 2011, c. 542, Pt. A, §§85 to 90, is repealed.

**Sec. EE-5. 34-B MRSA §5005-A** is enacted to read:

**§5005-A. Advocacy agency**

**1. Agency.** The department shall contract with the agency designated pursuant to Title 5, section 19502, referred to in this section as "the agency," to provide the services described in subsection 2 to individuals with intellectual disabilities or autism.

**2. Duties.** The department shall contract with the agency to:

A. Receive complaints made by or on behalf of individuals with intellectual disabilities or autism and represent their interests in any matter pertaining to their rights and dignity;

B. Investigate the claims, grievances and allegations of violations of the rights of individuals with intellectual disabilities or autism;

C. Intercede on behalf of individuals with intellectual disabilities or autism with officials of any provider of service administered, licensed or funded by the department, except that the agency may refuse to take action on any complaint that it considers to be trivial or moot or for which there is clearly another remedy available;

D. Assist individuals with intellectual disabilities or autism in any hearing or grievance proceeding pertaining to their rights and dignity;

E. Refer individuals with intellectual disabilities or autism to other agencies or entities and collaborate with those agencies or entities for the purpose of advocating for the rights and dignity of those individuals;

F. Act as an information source regarding the rights of all individuals with intellectual disabilities or autism, keeping itself informed about all laws, administrative rules and institutional and other policies relating to the rights and dignity of those individuals and about relevant legal decisions and other developments related to the fields of mental health, intellectual disabilities and autism, both in this State and in other parts of the country; and

G. Make and publish reports necessary to the performance of the duties described in this section. The agency may report its findings to groups outside the department, such as legislative bodies, advisory committees, commissions, law enforcement agencies and the press. At least annually, the agency shall report both in person and in writing to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the performance of the duties described in this section.

**3. Participate in personal planning.** The agency may participate in personal planning when the agency has concerns regarding the rights or dignity of a person with intellectual disabilities or autism. A person has the right to refuse such participation.

**4. Access to files and records.** The agency has access, limited only by the civil service law, to the files, records and personnel of any provider of services administered, licensed or funded by the department

and to all reports and related documents submitted pursuant to section 5604-A.

**5. Confidentiality.** Requests for confidentiality are treated as follows.

A. Any request by or on behalf of an individual with intellectual disabilities or autism for action by the agency and all written records or accounts related to the request are confidential as to the identity of the individual.

B. The records and accounts under paragraph A may be released only as provided by law.

**Sec. EE-6. 34-B MRSA §5470-B, sub-§7, ¶B,** as enacted by PL 2007, c. 356, §21 and affected by §31, is amended to read:

B. The department shall provide the ~~Office of Advocacy~~ advocacy agency designated pursuant to Title 5, section 19502 with sufficient advance notice of all scheduled personal planning meetings to permit the ~~office~~ advocacy agency to determine if the attendance or participation of an advocate in the planning process is appropriate pursuant to the duties and responsibilities of the ~~office~~ advocacy agency.

**Sec. EE-7. 34-B MRSA §5604, sub-§3, ¶A,** as amended by PL 2011, c. 542, Pt. A, §127, is further amended to read:

A. The department shall provide easily accessible and regular notice of the grievance process to persons with intellectual disabilities or autism served by the department. This notice must be included in informational materials provided to such persons, as well as to guardians, families, correspondents and allies. Notice of the right to appeal must be prominently displayed in regional offices and on the department's publicly accessible website and must be readily available from provider agencies. Notice of the right to appeal must be included in all substantive correspondence regarding personal planning. Written notice of the right to appeal must also be provided when there is a denial or reduction of services or supports to persons served by the department. All notices and information regarding the grievance process must be written in language that is plain and understandable and must include the address and telephone number of the ~~Office of Advocacy and the~~ protection and advocacy agency designated pursuant to Title 5, section 19502.

**Sec. EE-8. 34-B MRSA §5604-A, sub-§3,** as amended by PL 2011, c. 542, Pt. A, §128, is further amended to read:

**3. Violation.** All persons with knowledge of an alleged violation of the rights of an individual with an intellectual disability or autism as set out in section 5605 shall promptly report the details of the alleged

violation to the ~~Office of Advocacy~~ advocacy agency designated pursuant to Title 5, section 19502 as set forth in department rules.

**Sec. EE-9. 34-B MRSA §5605, sub-§13, ¶B**, as amended by PL 2011, c. 186, Pt. A, §27, is further amended to read:

B. Behavior modification and behavior management programs may be used only to correct behavior more harmful to the person than the program and only:

- (1) On the recommendation of the person's personal planning team;
- (2) For an adult 18 years of age or older, with the approval, following a case-by-case review, of a review team composed of ~~an advocate~~ a representative from the Office of Advocacy; a representative designated by the Office of Adults with Cognitive and Physical Disability Services; department, a representative from the advocacy agency designated pursuant to Title 5, section 19502 and a representative designated by the Maine Developmental Services Oversight and Advisory Board; and
- (3) For a child under 18 years of age, with the approval, following a case-by-case review, of a review team composed of ~~an advocate~~ a representative from the Office of Advocacy advocacy agency designated pursuant to Title 5, section 19502, a team leader of the department's children's services division and the children's services medical director or the director's designee. Until rules are adopted by the department to govern behavioral treatment reviews for children, the team may not approve techniques any more aversive or intrusive than are permitted in rules adopted by the Secretary of the United States Department of Health and Human Services regarding treatment of children and youth in non-medical community-based facilities funded under the Medicaid program.

**Sec. EE-10. 34-B MRSA §5605, sub-§14-A**, as amended by PL 2011, c. 542, Pt. A, §129, is further amended to read:

**14-A. Restraints.** A person with an intellectual disability or autism is entitled to be free from restraint unless:

- A. The restraint is a short-term step to protect the person from imminent injury to that person or others; or
- B. The restraint has been approved as a behavior management program in accordance with this section.

A restraint may not be used as punishment, for the convenience of the staff or as a substitute for habilitative services. A 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 restraint may not cause physical injury to the person receiving services and must be designed to allow the greatest possible comfort and safety.

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

Daily records of the use of 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 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~~ advocacy agency designated pursuant to Title 5, section 19502.

**Sec. EE-11. 34-B MRSA §5606, sub-§1**, as amended by PL 2007, c. 356, §26 and affected by §31, is further amended to read:

**1. Report and investigation.** Any alleged violation of the rights of a person receiving services must be reported immediately to the ~~Office of Advocacy within the department~~ advocacy agency designated pursuant to Title 5, section 19502, referred to in this subsection as "the agency," and to the Attorney General's office.

A. The ~~Office of Advocacy~~ agency shall conduct an investigation of each alleged violation pursuant to section ~~5005~~ 5005-A.

B. The ~~Office of Advocacy~~ agency shall submit a written report of the findings and results of the investigation to the chief administrative officer of the facility in which the rights of the person receiving services were allegedly violated and to the commissioner within 2 working days after the day of the occurrence or discovery of the alleged incident.

**Sec. EE-12. 34-B MRSA §5608, sub-§2**, as amended by PL 2011, c. 186, Pt. A, §36, is further amended to read:

**2. Duties.** The residential council shall work closely with the ~~Office of Adults with Cognitive and Physical Disability Services~~ department and the ~~Office of Advocacy~~ advocacy agency designated pursuant to Title 5, section 19502 to promote the interests and welfare of all persons receiving services from the provider.

**PART FF**

**Sec. FF-1. Restructuring.** The Commissioner of Health and Human Services shall review the current organizational structure, systems and operations of the Department of Health and Human Services and restructure the department in order to achieve the provisions of this Act. Notwithstanding any other provision of law, the State Budget Officer shall transfer positions, appropriations and allocations between accounts and line categories by financial order upon approval of the Governor in order to achieve the provisions of this Act. Transfers by the State Budget Officer made prior to September 1, 2012 are considered adjustments to authorized position count, appropriations and allocations in fiscal year 2012-13. On or before December 1, 2012, the commissioner and the State Budget Officer shall provide the joint standing committees of the Legislature having jurisdiction over health and human services matters and appropriations and financial affairs a report outlining the progress towards the new organizational structure and any transferred amounts. On or before June 30, 2013, the commissioner and the State Budget Officer shall provide the joint standing committees of the Legislature having jurisdiction over health and human services matters and appropriations and financial affairs a report updating the progress towards the new organizational structure and any transferred amounts made subsequent to the December 1, 2012 report.

**PART GG**

**Sec. GG-1. Medicaid state plan amendment for individuals who are 19 or 20 years of age.** The Department of Health and Human Services shall prepare and submit a Medicaid state plan amendment to the federal Centers for Medicare and Medicaid Services that, effective October 1, 2012, eliminates Medicaid coverage for individuals who are 19 or 20 years of age, who have incomes less than or equal to 150% of the nonfarm income official poverty line as defined by the federal Office of Management and Budget, who do not live with a dependent child and who are not otherwise eligible for Medicaid.

**Sec. GG-2. Contingent effective date.** This Part takes effect only if:

1. The Commissioner of Health and Human Services receives written approval of the application for a waiver of the maintenance of effort requirements of the federal Patient Protection and Affordable Care Act for the changes in section 1 from the federal Centers for Medicare and Medicaid Services or the commissioner receives written notification from the federal Centers for Medicare and Medicaid Services that such a waiver is not necessary; and
2. The Commissioner of Health and Human Services notifies the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives

and the Revisor of Statutes that written approval of the application for a waiver or written notification that such a waiver is not necessary has been received.

**PART HH**

**Sec. HH-1. 22 MRSA §254-D, sub-§4, ¶D,** as enacted by PL 2005, c. 401, Pt. A, §2, is amended to read:

D. Income eligibility of individuals must be determined by this paragraph and by reference to the federal poverty guidelines for the 48 contiguous states and the District of Columbia, as defined by the federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, Subsection 2, Public Law 97-35, reauthorized by Public Law 105-285, Section 201 (1998). If the household income is not more than ~~185%~~ 175% of the federal poverty guideline applicable to the household, the individual is eligible for the basic program and the supplemental program. Individuals are also eligible for the basic and the supplemental program if the household spends at least 40% of its income on unreimbursed direct medical expenses for prescription drugs and medications and the household income is not more than 25% higher than the levels specified in this paragraph. For the purposes of this paragraph, the cost of drugs provided to a household under this section is considered a cost incurred by the household for eligibility determination purposes.

**Sec. HH-2. Medicaid state plan amendment for the Medicare savings program.** The Department of Health and Human Services shall prepare and submit a Medicaid state plan amendment to the federal Centers for Medicare and Medicaid Services that, effective October 1, 2012, effectively reduces income eligibility levels for the Medicare savings program as follows: for the Qualified Medicare Beneficiary program, to income not more than 140% of the federal poverty level; for the Specified Low-Income Medicare Beneficiary program, to income more than 140% but not more than 160% of the federal poverty level; and for the Qualified Individuals program, to income more than 160% but not more than 175% of the federal poverty level.

**Sec. HH-3. Contingent effective date.** Section 2 of this Part takes effect only if:

1. The Commissioner of Health and Human Services receives written approval of the application for a waiver of the maintenance of effort requirements of the federal Patient Protection and Affordable Care Act for the changes in section 2 from the federal Centers for Medicare and Medicaid Services or the commissioner receives written notification from the Centers

for Medicare and Medicaid Services that such a waiver is not necessary; and

2. The Commissioner of Health and Human Services notifies the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes that written approval of the application for a waiver or written notification that such a waiver is not necessary has been received.

**PART II**

**Sec. II-1. 5 MRSA §1591, sub-§2, ¶D,** as enacted by PL 2011, c. 655, Pt. V, §1, is amended to read:

D. Any balance remaining in the accounts of the Department of Health and Human Services, Mental Health Services - Community program appropriated for the purposes of rental assistance and shelter services and consent decree activities at the end of any fiscal year to be carried forward for use in the next fiscal year for the same purpose.

**PART JJ**

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

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)**

**Developmental Services Waiver - MaineCare 0987**

Initiative: Provides funds to serve individuals on the waiting list for services under the MaineCare Benefits Manual, Chapter II, Section 21, Home and Community Benefits for Members with Intellectual Disabilities or Autistic Disorder.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$500,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$500,000</b>

**Mental Health Services - Child Medicaid 0731**

Initiative: Reduces funding by reducing optional coverage for children who are behaviorally challenged and who are in a residential setting.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$375,000)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$375,000)</b>

**Mental Health Services - Children 0136**

Initiative: Provides funding to offset a deappropriation in Part A of this Act reducing contracts for residential services.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$1,250,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$1,250,000</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)**

DEPARTMENT TOTALS	2011-12	2012-13
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$1,375,000</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$1,375,000</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

**Medical Care - Payments to Providers 0147**

Initiative: Provides funds to offset a 10% rate reduction for adult family care services in Public Law 2011, chapter 477, Part M.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$22,007
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$22,007</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$37,908
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$37,908</b>

**Medical Care - Payments to Providers 0147**

Initiative: Provides funds to serve individuals on the waiting list for services under the MaineCare Benefits Manual, Chapter II, Section 21, Home and Community Benefits for Members with Intellectual Disabilities or Autistic Disorder.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	\$861,285
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$861,285</b>

**Medical Care - Payments to Providers 0147**

Initiative: Reduces funding by reducing optional coverage for children who are behaviorally challenged and who are in a residential setting.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$645,964)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$645,964)
HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS) DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$22,007
FEDERAL EXPENDITURES FUND	\$0	\$253,229
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$275,236
SECTION TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$1,397,007
FEDERAL EXPENDITURES FUND	\$0	\$253,229
SECTION TOTAL - ALL FUNDS	\$0	\$1,650,236

See title page for effective date, unless otherwise indicated.

**CHAPTER 658  
H.P. 1420 - L.D. 1916**

**An Act Making Supplemental Appropriations and Allocations from the Highway Fund for the Expenditures of State Government To Address Revenue Shortfalls Projected for the Fiscal Years Ending June 30, 2012 and June 30, 2013**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergency; and

**Whereas**, the 90-day period may not terminate until after the beginning of the next fiscal year; and

**Whereas**, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable 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. Appropriations and allocations.**

The following appropriations and allocations are made.

**TRANSPORTATION, DEPARTMENT OF Administration 0339**

Initiative: Reduces funding by managing vacancies to maintain budgets within available resources as a result of the April 2012 downward projection of Highway Fund revenues by the Revenue Forecasting Committee.

HIGHWAY FUND	2011-12	2012-13
Personal Services	(\$150,000)	(\$100,000)
HIGHWAY FUND TOTAL	(\$150,000)	(\$100,000)

**Bond Interest - Highway 0358**

Initiative: Reduces funding for debt service to recognize the federal reimbursement of a portion of the debt service of previously issued Build America Bonds.

HIGHWAY FUND	2011-12	2012-13
All Other	(\$291,735)	(\$291,735)
HIGHWAY FUND TOTAL	(\$291,735)	(\$291,735)

**Highway and Bridge Capital 0406**

Initiative: Reduces funding for capital projects to maintain budgets within available resources as a result of the April 2012 downward projection of Highway Fund revenues by the Revenue Forecasting Committee.

HIGHWAY FUND	2011-12	2012-13
Capital Expenditures	(\$1,807,370)	(\$1,807,370)
HIGHWAY FUND TOTAL	(\$1,807,370)	(\$1,807,370)

**Maintenance and Operations 0330**

Initiative: Reduces funding by managing vacancies to maintain budgets within available resources as a result of the April 2012 downward projection of Highway Fund revenues by the Revenue Forecasting Committee.

HIGHWAY FUND	2011-12	2012-13
Personal Services	(\$250,000)	(\$800,000)
<b>HIGHWAY FUND TOTAL</b>	<b>(\$250,000)</b>	<b>(\$800,000)</b>

**Multimodal - Freight 0350**

Initiative: Adjusts funding to correct allocations for passenger rail that were made to the Multimodal - Freight program in error in Public Law 2011, chapter 649.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	(\$1,812,000)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$1,812,000)</b>

**Multimodal - Passenger Rail Z139**

Initiative: Adjusts funding to correct allocations for passenger rail that were made to the Multimodal - Freight program in error in Public Law 2011, chapter 649.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$1,812,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$1,812,000</b>

**Urban-Rural Initiative Program 0337**

Initiative: Reduces funding based on the statutory percentage to maintain budgets within available resources as a result of the April 2012 downward projection of Highway Fund revenues by the Revenue Forecasting Committee.

HIGHWAY FUND	2011-12	2012-13
All Other	(\$266,355)	(\$319,645)
<b>HIGHWAY FUND TOTAL</b>	<b>(\$266,355)</b>	<b>(\$319,645)</b>

**TRANSPORTATION, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
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HIGHWAY FUND	(\$2,765,460)	(\$3,318,750)
OTHER SPECIAL REVENUE FUNDS	\$0	\$0
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$2,765,460)</b>	<b>(\$3,318,750)</b>

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

Effective May 16, 2012.

**CHAPTER 659**

**H.P. 928 - L.D. 1237**

**An Act To Prohibit Bullying and Cyberbullying in Schools**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 20-A MRS §254, sub-§11-A** is enacted to read:

**11-A. Model policy; reporting.** By January 1, 2013, the commissioner shall develop a model policy to address bullying and cyberbullying for use by school administrative units pursuant to section 6554. A copy of the model policy must be sent to each school administrative unit in the State and posted on the publicly accessible portion of the department's website along with any training and instructional materials related to the policy that the commissioner determines necessary.

A. The commissioner shall create a procedure by which school administrative units report substantiated incidents of bullying and cyberbullying to the department on at least an annual basis. These reports may not contain personally identifying information about students or other involved persons, but must delineate the specific nature of the incidents, the consequences and the actions taken.

B. The commissioner may update or revise the model policy and shall post the update or revision on the publicly accessible portion of the department's website and send a copy of the update or revision to each school administrative unit.

**Sec. 2. 20-A MRSA §1001, sub-§15, ¶H,** as enacted by PL 2005, c. 307, §3, is amended to read:

H. Establish policies and procedures to address bullying, harassment and sexual harassment as set forth in section 6554.

**Sec. 3. 20-A MRSA §6554** is enacted to read:  
**§6554. Prohibition on bullying in public schools**

**1. Findings.** All students have the right to attend public schools that are safe, secure and peaceful environments. The Legislature finds that bullying and cyberbullying have a negative effect on the school environment and student learning and well-being. These behaviors must be addressed to ensure student safety and an inclusive learning environment. Bullying may be motivated by a student's actual or perceived race; color; religion; national origin; ancestry or ethnicity; sexual orientation; socioeconomic status; age; physical, mental, emotional or learning disability; gender; gender identity and expression; physical appearance; weight; family status; or other distinguishing personal characteristics or may be based on association with another person identified with such a characteristic. Nothing in this section may be interpreted as inconsistent with the existing protection, in accordance with the First Amendment of the United States Constitution, for the expression of religious, political and philosophical views in a school setting.

**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alternative discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the root causes of a student's specific misbehavior while retaining the student in class or school, or restorative school practices to repair the harm done to relationships and persons from the student's misbehavior. "Alternative discipline" includes, but is not limited to:

- (1) Meeting with the student and the student's parents;
- (2) Reflective activities, such as requiring the student to write an essay about the student's misbehavior;
- (3) Mediation when there is mutual conflict between peers, rather than one-way negative behavior, and when both parties freely choose to meet;
- (4) Counseling;
- (5) Anger management;
- (6) Health counseling or intervention;
- (7) Mental health counseling;

(8) Participation in skills building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;

(9) Community service; and

(10) In-school detention or suspension, which may take place during lunchtime, after school or on weekends.

B. "Bullying" includes, but is not limited to, a written, oral or electronic expression or a physical act or gesture or any combination thereof directed at a student or students that:

(1) Has, or a reasonable person would expect it to have, the effect of:

(a) Physically harming a student or damaging a student's property; or

(b) Placing a student in reasonable fear of physical harm or damage to the student's property;

(2) Interferes with the rights of a student by:

(a) Creating an intimidating or hostile educational environment for the student; or

(b) Interfering with the student's academic performance or ability to participate in or benefit from the services, activities or privileges provided by a school; or

(3) Is based on a student's actual or perceived characteristics identified in Title 5, section 4602 or 4684-A, or is based on a student's association with a person with one or more of these actual or perceived characteristics or any other distinguishing characteristics and that has the effect described in subparagraph (1) or (2).

"Bullying" includes cyberbullying.

C. "Cyberbullying" means bullying through the use of technology or any electronic communication, including, but not limited to, a transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted by the use of any electronic device, including, but not limited to, a computer, telephone, cellular telephone, text messaging device and personal digital assistant.

D. "Retaliation" means an act or gesture against a student for asserting or alleging an act of bullying. "Retaliation" also includes reporting that is not made in good faith on an act of bullying.

E. "School grounds" means a school building; property on which a school building or facility is located; and property that is owned, leased or used

by a school for a school-sponsored activity, function, program, instruction or training. "School grounds" also includes school-related transportation vehicles.

**3. Prohibition.** A person may not engage in bullying on school grounds. This section does not modify or eliminate a school's obligation to comply with state and federal constitutional protections and civil rights laws applicable to schools.

**4. Scope.** This section applies to bullying that:

A. Takes place at school or on school grounds, at any school-sponsored or school-related activity or event or while students are being transported to or from school or school-sponsored activities or events; or

B. Takes place elsewhere or through the use of technology, but only if the bullying also infringes on the rights of the student at school as set forth in subsection 2, paragraph B.

**5. Adoption of policy.** When revising the policies and procedures it has established to address bullying pursuant to section 1001, subsection 15, paragraph H, a school board shall ensure that its policies and procedures are consistent with the model policy developed or revised by the commissioner pursuant to section 254, subsection 11-A. The policies and procedures must include, but are not limited to:

A. A provision identifying the responsibility of students and others on school grounds to comply with the policies;

B. A clear statement that bullying, harassment and sexual harassment and retaliation for reporting incidents of such behavior are prohibited;

C. A provision outlining the responsibility of a superintendent to implement and enforce the bullying policies required by this section, including:

(1) A requirement that the superintendent designate a school principal or other school personnel to administer the policies at the school level; and

(2) A procedure for publicly identifying the superintendent's designee or designees for administering the policies at the school level;

D. A requirement that school staff members, coaches and advisors for extracurricular and co-curricular activities report incidents of bullying to the school principal or other school personnel designated by the superintendent pursuant to paragraph C;

E. Procedures for students, school staff members, parents and others to report incidents of bullying. The procedures must permit reports of bullying to be made anonymously;

F. A procedure for promptly investigating and responding to incidents of bullying, including written documentation of reported incidents and the outcome of the investigations;

G. A clear statement that any person who engages in bullying, who is determined to have knowingly and falsely accused another of bullying or who engages in acts of retaliation against a person who reports a suspected incident of bullying is subject to disciplinary actions, which actions may include but are not limited to imposing a series of graduated consequences that include alternative discipline;

H. A procedure for a person to appeal a decision of a school principal or a superintendent's designee related to taking or not taking disciplinary action in accordance with the policies adopted pursuant to this subsection. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent;

I. A procedure to remediate any substantiated incident of bullying to counter the negative impact of the bullying and reduce the risk of future bullying incidents, which may include referring the victim, perpetrator or other involved persons to counseling or other appropriate services;

J. A process for the school to communicate to the parent of a student who has been bullied the measures being taken to ensure the safety of the student who has been bullied and to prevent further acts of bullying; and

K. A procedure for communicating with a local or state law enforcement agency if the school principal or the superintendent's designee believes that the pursuit of criminal charges or a civil action under the Maine Civil Rights Act is appropriate.

School boards may combine the policies and procedures required by this subsection with nondiscrimination, harassment and sexual harassment policies and grievance procedures.

**6. Dissemination of policy.** Each school board shall annually provide the written policies and procedures adopted pursuant to subsection 5 to students, parents, volunteers, administrators, teachers and school staff. The policies and procedures must be posted on the school administrative unit's publicly accessible website. Each school board shall include in its student handbook a section that addresses in detail the policies and procedures adopted pursuant to subsection 5.

**7. Application.** A superintendent or the superintendent's designee shall ensure that every substantiated incident of bullying is addressed.

A. The prohibition on bullying and retaliation and the attendant consequences apply to any student, school employee, contractor, visitor or volunteer who engages in conduct that constitutes bullying or retaliation.

B. Any contractor, visitor or volunteer who engages in bullying must be barred from school grounds until the superintendent is assured that the person will comply with this section and the policies of the school board.

C. Any organization affiliated with the school that authorizes or engages in bullying or retaliation forfeits permission for that organization to operate on school grounds or receive any other benefit of affiliation with the school.

**8. Transparency and monitoring.** Each school administrative unit shall file its policies to address bullying and cyberbullying with the department.

**9. Staff training.** A school administrative unit shall provide professional development and staff training in the best approaches to implementing this section.

See title page for effective date.

**CHAPTER 660**

**H.P. 467 - L.D. 637**

**An Act To Increase the Amount Tagging Agents Receive for Tagging Game**

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

**Sec. 1. 12 MRSA §12301-A, sub-§3, ¶C,** as amended by PL 2009, c. 213, Pt. OO, §10, is further amended to read:

C. Collect \$5 and retain \$1 §2 for each seal from the person registering a bear, deer, moose or wild turkey. The remaining \$4 §3 must be returned to the department by the agent pursuant to section 10801, subsection 3.

See title page for effective date.

**CHAPTER 661**

**H.P. 572 - L.D. 765**

**An Act To Address the Documented Educational and Rehabilitation Needs of Persons Who Are Blind or Visually Impaired**

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

**Whereas,** legal requirements regarding the educational needs of children who are blind or visually impaired are not currently being met; 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. 26 MRSA §1418-D, sub-§2,** as enacted by PL 1995, c. 560, Pt. F, §13, is amended to read:

**2. Department of Education input; school administrative units.** The division shall ensure that the Department of Education has input into any contract to provide educational services and delivery of those services to blind or visually impaired children from birth to 20 years of age. Educational services for blind or visually impaired children from birth to 20 years of age are an entitlement mandated by federal law and, as such, children will receive priority for all services provided by the division. Nothing in this section relieves school administrative units from fulfilling their responsibilities under Title 20-A, Part 4, subpart 1.

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

Effective May 21, 2012.

**CHAPTER 662**

**S.P. 456 - L.D. 1465**

**An Act To Amend the Laws Governing Freedom of Access**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 1 MRSA §400** is enacted to read:

**§400. Short title**

This subchapter may be known and cited as "the Freedom of Access Act."

**Sec. 2. 1 MRSA §402, sub-§3, ¶M,** as amended by PL 2005, c. 381, §1, is further amended to read:

M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure and systems and software. Records or information covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure;

**Sec. 3. 1 MRSA §402, sub-§§5 and 6** are enacted to read:

**5. Public access officer.** "Public access officer" means the person designated pursuant to section 413, subsection 1.

**6. Reasonable office hours.** "Reasonable office hours" includes all regular office hours of an agency or official.

**Sec. 4. 1 MRSA §408,** as amended by PL 2009, c. 240, §4, is repealed.

**Sec. 5. 1 MRSA §408-A** is enacted to read:

**§408-A. Public records available for inspection and copying**

Except as otherwise provided by statute, a person has the right to inspect and copy any public record in accordance with this section within a reasonable time of making the request to inspect or copy the public record.

**1. Inspect.** A person may inspect any public record during reasonable office hours. An agency or official may not charge a fee for inspection unless the public record cannot be inspected without being converted or compiled, in which case the agency or official may charge a fee as provided in subsection 8.

**2. Copy.** A person may copy a public record in the office of the agency or official having custody of the public record during reasonable office hours or may request that the agency or official having custody of the record provide a copy. The agency or official may charge a fee for copies as provided in subsection 8.

A. A request need not be made in person or in writing.

B. The agency or official shall mail the copy upon request.

**3. Acknowledgment; clarification; time estimate.** The agency or official having custody or con-

trol of a public record shall acknowledge receipt of a request made according to this section within a reasonable period of time, and may request clarification concerning which public record or public records are being requested. The agency or official shall provide a good faith, nonbinding estimate of the time within which the agency or official will comply with the request. The agency or official shall make a good faith effort to fully respond to the request within the estimated time.

**4. Refusals; denials.** If a body or an agency or official having custody or control of any public record refuses permission to inspect or copy or abstract a public record, the body or agency or official shall provide written notice of the denial, stating the reason for the denial, within 5 working days of the request for inspection or copying.

**5. Schedule.** Inspection, conversion pursuant to subsection 7 and copying of a public record subject to a request under this section may be scheduled to occur at a time that will not delay or inconvenience the regular activities of the agency or official having custody or control of the public record requested. If the agency or official does not have regular office hours, the name and telephone number of a contact person authorized to provide access to the agency's or official's records must be posted in a conspicuous public place and at the office of the agency or official, if an office exists.

**6. No requirement to create new record.** An agency or official is not required to create a record that does not exist.

**7. Electronically stored public records.** An agency or official having custody or control of a public record subject to a request under this section shall provide access to an electronically stored public record either as a printed document of the public record or in the medium in which the record is stored, at the requester's option, except that the agency or official is not required to provide access to an electronically stored public record as a computer file if the agency or official does not have the ability to separate or prevent the disclosure of confidential information contained in or associated with that file.

A. If in order to provide access to an electronically stored public record the agency or official converts the record into a form susceptible of visual or aural comprehension or into a usable format for inspection or copying, the agency or official may charge a fee to cover the cost of conversion as provided in subsection 8.

B. This subsection does not require an agency or official to provide a requester with access to a computer terminal.

**8. Payment of costs.** Except as otherwise specifically provided by law or court order, an agency or

official having custody of a public record may charge fees for public records as follows.

A. The agency or official may charge a reasonable fee to cover the cost of copying.

B. The agency or official may charge a fee to cover the actual cost of searching for, retrieving and compiling the requested public record of not more than \$15 per hour after the first hour of staff time per request. Compiling the public record includes reviewing and redacting confidential information.

C. The agency or official may charge for the actual cost to convert a public record into a form susceptible of visual or aural comprehension or into a usable format.

D. An agency or official may not charge for inspection unless the public record cannot be inspected without being compiled or converted, in which case paragraph B or C applies.

E. The agency or official may charge for the actual mailing costs to mail a copy of a record.

9. Estimate. The agency or official having custody or control of a public record subject to a request under this section shall provide to the requester an estimate of the time necessary to complete the request and of the total cost as provided by subsection 8. If the estimate of the total cost is greater than \$30, the agency or official shall inform the requester before proceeding. If the estimate of the total cost is greater than \$100, subsection 10 applies.

10. Payment in advance. The agency or official having custody or control of a public record subject to a request under this section may require a requester to pay all or a portion of the estimated costs to complete the request prior to the search, retrieval, compiling, conversion and copying of the public record if:

A. The estimated total cost exceeds \$100; or

B. The requester has previously failed to pay a properly assessed fee under this chapter in a timely manner.

11. Waivers. The agency or official having custody or control of a public record subject to a request under this section may waive part or all of the total fee charged pursuant to subsection 8 if:

A. The requester is indigent; or

B. The agency or official considers release of the public record requested to be in the public interest because doing so is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

**Sec. 6. 1 MRSA §409, sub-§1,** as amended by PL 2009, c. 240, §5, is further amended to read:

**1. Records.** ~~If any body or agency or official who has custody or control of any public record refuses permission to inspect or copy or abstract a public record, this denial must be made by the body or agency or official in writing, stating the reason for the denial, within 5 working days of the request for inspection by any person. Any person aggrieved by a refusal or denial to inspect or copy a record under section 408-A may appeal, within 5 working days of the receipt of the written notice of denial, to any Superior Court within the State. If a court, after a trial de novo, determines such denial was not for just and proper cause, it shall enter an order for disclosure. Appeals are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus and actions brought by the State against individuals.~~

**Sec. 7. 1 MRSA §412,** as amended by PL 2007, c. 576, §2, is further amended to read:

**§412. Public records and proceedings training for certain elected officials and public access officers**

**1. Training required.** ~~Beginning July 1, 2008, A public access officer and an elected official subject to this section shall complete a course of training on the requirements of this chapter relating to public records and proceedings. The official or public access officer shall complete the training not later than the 120th day after the date the elected official takes the oath of office to assume the person's duties as an elected official or the person is designated as a public access officer pursuant to section 413, subsection 1. For elected officials subject to this section serving in office on July 1, 2008, the training required by this section must be completed by November 1, 2008.~~

**2. Training course; minimum requirements.** The training course under subsection 1 must be designed to be completed by an official or a public access officer in less than 2 hours. At a minimum, the training must include instruction in:

A. The general legal requirements of this chapter regarding public records and public proceedings;

B. Procedures and requirements regarding complying with a request for a public record under this chapter; and

C. Penalties and other consequences for failure to comply with this chapter.

An elected official or a public access officer meets the training requirements of this section by conducting a thorough review of all the information made available by the State on a publicly accessible website pursuant to section 411, subsection 6, paragraph C regarding specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. To meet the requirements of this subsection, any other training course must include

all of this information and may include additional information.

**3. Certification of completion.** Upon completion of the training course required under subsection 1, the elected official or public access officer shall make a written or an electronic record attesting to the fact that the training has been completed. The record must identify the training completed and the date of completion. The elected official shall keep the record or file it with the public entity to which the official was elected. A public access officer shall file the record with the agency or official that designated the public access officer.

**4. Application.** This section applies to a public access officer and the following elected officials:

- A. The Governor;
- B. The Attorney General, Secretary of State, Treasurer of State and State Auditor;
- C. Members of the Legislature elected after November 1, 2008;
- E. Commissioners, treasurers, district attorneys, sheriffs, registers of deeds, registers of probate and budget committee members of county governments;
- F. Municipal officers, clerks, treasurers, assessors and budget committee members of municipal governments;
- G. Officials of school administrative units and school boards; and
- H. Officials of a regional or other political subdivision who, as part of the duties of their offices, exercise executive or legislative powers. For the purposes of this paragraph, "regional or other political subdivision" means an administrative entity or instrumentality created pursuant to Title 30-A, chapter 115 or 119 or a quasi-municipal corporation or special purpose district, including, but not limited to, a water district, sanitary district, hospital district, school district of any type, transit district as defined in Title 30-A, section 3501, subsection 1 or regional transportation corporation as defined in Title 30-A, section 3501, subsection 2.

**Sec. 8. 1 MRSA §§413 and 414** are enacted to read:

**§413. Public access officer**

**1. Designation; responsibility.** Each agency, county, municipality, school administrative unit and regional or other political subdivision shall designate an existing employee as its public access officer to serve as the contact person for that agency, county, municipality, school administrative unit and regional or other political subdivision with regard to requests for public records under this subchapter. The public

access officer is responsible for ensuring that each public record request is acknowledged within a reasonable period of time and that a good faith estimate of when the response to the request will be complete is provided according to section 408-A. The public access officer shall serve as a resource within the agency, county, municipality, school administrative unit and regional or other political subdivision concerning freedom of access questions and compliance.

**2. Acknowledgment and response required.** An agency, county, municipality, school administrative unit and regional or other political subdivision that receives a request to inspect or copy a public record shall acknowledge and respond to the request regardless of whether the request was delivered to or directed to the public access officer.

**3. No delay based on unavailability.** The unavailability of a public access officer may not delay a response to a request.

**4. Training.** A public access officer shall complete a course of training on the requirements of this chapter relating to public records and proceedings as described in section 412.

**§414. Public records; information technology**

An agency shall consider, in the purchase of and contracting for computer software and other information technology resources, the extent to which the software or technology will:

**1. Maximize public access.** Maximize public access to public records; and

**2. Maximize exportability; protect confidential information.** Maximize the exportability of public records while protecting confidential information that may be part of public records.

**Sec. 9. 6 MRSA §174, sub-§5,** as enacted by PL 2007, c. 563, §1, is amended to read:

**5. Organization; conduct of business; employees.** Within one week after each annual election or appointment, the directors shall meet for the purpose of electing a chair, treasurer and clerk to serve for the ensuing year and until their successors are appointed and qualified. The directors from time to time may choose and employ and fix the compensation of any other necessary officers and agents, who serve at the pleasure of the directors. The treasurer shall furnish bond in the sum and with sureties approved by the directors. The airport authority shall pay the cost of the bond.

The directors may adopt and establish bylaws consistent with the laws of this State and necessary for the convenience and the proper management of the affairs of the airport authority and perform other acts within the powers delegated by law to the directors.

The directors must be sworn to the faithful performances of their duties, including the duties of a member who serves as clerk or clerk pro tem. The directors shall publish an annual report that includes a report of the treasurer.

The directors shall appoint and fix the salary of an airport manager who may not be a director. The airport manager has such power and authority as the directors in their bylaws or by resolution specify and delegate to the airport manager. Subject to approval of or authorization from the directors, the airport manager may appoint any other employees necessary to carry out the corporate purposes of the airport authority and may fix their salaries.

Business of the airport authority must be conducted in accordance with the applicable provisions of the ~~freedom of access laws, Title 1, sections 401 to 412~~ Freedom of Access Act.

**Sec. 10. 12 MRSA §8424, sub-§2**, as amended by PL 1981, c. 278, §4, is further amended to read:

**2. Application for spray project eligibility.** Forest land owners may apply to the director prior to December 1st of any year to be eligible to participate in the spray projects for the following 5 years. The application ~~shall~~ must show:

- A. The name and address of the applicant and its agent, if any;
- B. The number and location on maps prescribed by the director of the acres of forest land for which application is being made;
- C. The location on maps prescribed by the director of the timber types, timber ages and proportions of spruce, fir and non-host species within such forest land;
- D. The location on maps of private and public road access to such forest land;
- E. The location on maps of all residences within that forest land;
- F. A 5-year cutting plan for such forest land showing plans for timber cutting, road construction and other planned land utilizations; and
- G. Any other information pertinent to the description, utilization and management of such forest land as the director may require for purposes of spray project and management program planning.

The date for submission of the information required under subsection 2, paragraph C; may be extended by the director upon a showing that such information is not then available.

Cutting plans accompanying the application may be utilized by the Bureau of Forestry for planning purposes, and may be shared with other government

agencies, but ~~shall~~ do not constitute records available for public inspection or disclosure pursuant to Title 1, section ~~408~~ 408-A.

For excise tax purposes, such application must designate one person who ~~shall~~ must be billed and notified of any lien recorded under this subchapter. When a tax bill or notice of lien is sent to this person, it ~~shall~~ constitute ~~constitutes~~ notice to all other landowners listed on the application. Each forest ~~landowner shall~~ be land owner is jointly and severally liable for any tax, penalty or interest imposed under this subchapter.

**Sec. 11. 21-A MRSA §22, sub-§3**, as amended by PL 2009, c. 564, §1, is further amended to read:

**3. Confidential information.** Notwithstanding subsection 1 and Title 1, section ~~408~~ 408-A, if a registered voter meets certain conditions, the voter's information must be kept confidential as provided in this subsection.

A. For a voter who is certified by the Secretary of State as a program participant in the Address Confidentiality Program pursuant to Title 5, section 90-B, all records maintained by the registrar pertaining to that voter must be kept confidential and must be excluded from public inspection.

B. For a voter who submits to the registrar a signed statement that the voter has a good reason to believe that the physical safety of the voter or a member of the voter's immediate family residing with the voter would be jeopardized if the voter's residence address were open to public inspection, that voter's residence address and mailing address, if the mailing address is the same as or discloses the voter's residence address, must be kept confidential and must be excluded from public inspection. The remainder of the information in that voter's record that is designated as public information in section 196-A remains a public record and may be made available to the public according to the use and distribution requirements provided in that section. The voter's signed statement is also a public record. A voter's address that is excluded from public inspection under this paragraph may be made available free of charge to a law enforcement officer or law enforcement agency that makes a written request to use the information for a bona fide law enforcement purpose or to a person identified by a court order if directed by that order.

**Sec. 12. 21-A MRSA §22, sub-§5**, as enacted by PL 2003, c. 584, §1, is amended to read:

**5. Signature and identification number of registered voter.** Notwithstanding subsection 1 and Title 1, section ~~408~~ 408-A, the voter's signature and identification number on the voter registration application and associated records in electronic format are desig-

nated as nonpublic records and the registrar shall exclude those items from public inspection. Voter signatures on voter registration applications and associated records in a printed hard-copy format are public records in accordance with subsection 1 and Title 1, section ~~408~~ 408-A.

**Sec. 13. 21-A MRSA §22, sub-§7**, as enacted by PL 2011, c. 342, §5, is amended to read:

**7. Incoming voting list.** After the incoming voting list is unsealed following the election, the list must be made available for public inspection and copying in accordance with Title 1, section ~~408~~ 408-A.

**Sec. 14. 21-A MRSA §1104**, as enacted by PL 1989, c. 802, §1, is amended to read:

**§1104. Public records**

The commission shall retain for public inspection all completed code forms accepted by the commission under section 1103. A code subscribed to by a candidate is a public record under Title 1, section ~~408~~ 408-A.

**Sec. 15. 25 MRSA §2006, first ¶**, as amended by PL 2011, c. 298, §11, is further amended to read:

Notwithstanding Title 1, ~~sections 401 to 410~~ chapter 13, subchapter 1, all applications for a permit to carry concealed handguns and documents made a part of the application, refusals and any information of record collected by the issuing agency during the process of ascertaining whether an applicant is of good moral character and meets the additional requirements of sections 2003 and 2005 are confidential and may not be made available for public inspection or copying. The applicant may waive this confidentiality by written notice to the issuing authority. All proceedings relating to the issuance, refusal or revocation of a permit to carry concealed handguns are not public proceedings under Title 1, chapter 13, unless otherwise requested by the applicant.

**Sec. 16. 25 MRSA §2929, sub-§3**, as enacted by PL 1997, c. 291, §3, is amended to read:

**3. Disclosure required.** The restrictions on disclosure provided under subsection 2 apply only to those portions of databases, reports, audio recordings or other records of the bureau or a public safety answering point that contain confidential information. Other information that appears in those records and other records, except information or records declared to be confidential under other law, is subject to disclosure pursuant to Title 1, section ~~408~~ 408-A. The bureau shall develop procedures to ensure protection of confidential records and information and public access to other records and information. Procedures may involve developing edited copies of records containing confidential information or the production of official

summaries of those records that contain the substance of all nonconfidential information.

**Sec. 17. 25 MRSA §2957**, as repealed and replaced by PL 1999, c. 790, Pt. A, §33, is amended to read:

**§2957. Confidentiality**

Notwithstanding any other provisions of law, the investigative records of the agency are confidential and all meetings of the board are subject to Title 1, ~~sections 401 to 410~~ chapter 13, subchapter 1, except that those meetings may be held in executive session to discuss any case investigations or any disciplinary actions.

**Sec. 18. 29-A MRSA §2251, sub-§7**, as amended by PL 2011, c. 390, §1, is further amended to read:

**7. Report information.** An accident report made by an investigating officer or a report made by an operator as required by subsection 2 is for the purposes of statistical analysis and accident prevention.

A report or statement contained in the accident report, or a report as required by subsection 2, a statement made or testimony taken at a hearing before the Secretary of State held under section 2483, or a decision made as a result of that report, statement or testimony may not be admitted in evidence in any trial, civil or criminal, arising out of the accident.

A report may be admissible in evidence solely to prove compliance with this section.

Notwithstanding subsection 7-A, the Chief of the State Police may disclose the date, time and location of the accident and the names and addresses of operators, owners, injured persons, witnesses and the investigating officer. On written request, the chief may furnish a photocopy of the investigating officer's report at the expense of the person making the request. The cost of furnishing a copy of the report is not subject to the limitations of Title 1, section ~~408, subsection 3~~ 408-A.

**Sec. 19. 29-A MRSA §2251, sub-§7-A, ¶C**, as enacted by PL 2011, c. 390, §2, is amended to read:

C. The Department of Public Safety, Bureau of State Police may publicly disseminate nonpersonally identifying accident report data that are contained in an accident report database maintained, administered or contributed to by the Bureau of State Police. The cost of furnishing a copy of such data is not subject to the limitations of Title 1, section ~~408~~ 408-A.

**Sec. 20. 32 MRSA §9418, first ¶**, as enacted by PL 1987, c. 170, §19, is amended to read:

Notwithstanding Title 1, ~~sections 401 to 410~~ chapter 13, subchapter 1, all applications for a license to be a contract security company and any documents

made a part of the application, refusals and any information of record collected by the commissioner during the process of ascertaining whether an applicant is of good moral character and meets the additional requirements of sections 9405 and 9411-A, and all information of record collected by the commissioner during the process of ascertaining whether a natural person meets the requirements of section 9410-A, are confidential and may not be made available for public inspection or copying. The applicant or natural person may waive this confidentiality by written notice to the commissioner. All proceedings relating to the issuance of a license to be a contract security company are not public proceedings under Title 1, chapter 13, unless otherwise requested by the applicant.

**Sec. 21. 33 MRSA §651, last ¶**, as enacted by PL 2009, c. 575, §1, is amended to read:

Notwithstanding Title 1, section ~~408, subsection 3~~ ~~408-A~~, this chapter governs fees for copying records maintained under this chapter.

**Sec. 22. 34-A MRSA §1216, sub-§1**, as amended by PL 2005, c. 487, §§2 to 4, is further amended to read:

**1. Limited disclosure.** All orders of commitment, medical and administrative records, applications and reports, and facts contained in them, pertaining to any person receiving services from the department must be kept confidential and may not be disclosed by any person, except that public records must be disclosed in accordance with Title 1, section ~~408~~ ~~408-A~~; criminal history record information may be disseminated in accordance with Title 16, chapter 3, subchapter 8; and documents other than those documents pertaining to information obtained by the department for the purpose of evaluating a client's ability to participate in a community-based program or from informants in a correctional or detention facility for the purpose of determining whether facility rules have been violated or pertaining to a victim's request for notice of release may, and must upon request, be disclosed:

A. To any person if the person receiving services, that person's legal guardian, if any, and, if that person is a minor, that person's parent or legal guardian give informed written consent to the disclosure of the documents referred to in this subsection after being given the opportunity to review the documents sought to be disclosed;

B. To any state agency if necessary to carry out the statutory functions of that agency;

C. If ordered by a court of record, subject to any limitation in the Maine Rules of Evidence, Rule 503;

D. To any criminal justice agency if necessary to carry out the administration of criminal justice or

the administration of juvenile criminal justice or for criminal justice agency employment;

E. To persons engaged in research if:

(1) The research plan is first submitted to and approved by the commissioner;

(2) The disclosure is approved by the commissioner; and

(3) Neither original records nor identifying data are removed from the facility or office that prepared the records.

The commissioner and the person doing the research shall preserve the anonymity of the person receiving services from the department and may not disseminate data that refer to that person by name or number or in any other way that might lead to the person's identification;

F. To persons who directly supervise or report on the health, behavior or progress of a juvenile, to the superintendent of a juvenile's school and the superintendent's designees and to agencies that are or might become responsible for the health or welfare of a juvenile if the information is relevant to and disseminated for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation, including reintegration into the school; or

G. To any state agency engaged in statistical analysis for the purpose of improving the delivery of services to persons who are or might become mutual clients if:

(1) The plan for the statistical analysis is first submitted to and approved by the commissioner; and

(2) The disclosure is approved by the commissioner.

The commissioner and the state agency requesting the information shall preserve the anonymity of the persons receiving services from the department and may not disseminate data that refer to any person by name or number or that in any other way might lead to a person's identification.

Notwithstanding any other provision of law, the department may release the names, dates of birth and social security numbers of juveniles receiving services from the department and, if applicable, eligibility numbers and the dates on which those juveniles received services to the Department of Health and Human Services for the sole purpose of determining eligibility and billing for services under federally funded programs administered by the Department of Health and Human Services and provided by or through the department. The department may also release to the Department of Health and Human Services information required for and to be used solely for audit pur-

poses, consistent with federal law, for those services provided by or through the department. Department of Health and Human Services personnel must treat this information as confidential in accordance with federal and state law and must return the records when their purpose has been served.

**Sec. 23. 35-A MRSA §6410, sub-§5,** as enacted by PL 1995, c. 616, §10, is amended to read:

**5. Water districts; organization; conduct of business.** Within one week after each annual appointment or election, the trustees of a water district shall meet for the purpose of electing a chair, treasurer and clerk from among them to serve for the ensuing year and until their successors are elected or appointed and qualified. The trustees, from time to time, may choose and employ and fix the compensation of any other necessary officers and agents who serve at the pleasure of the trustees. The treasurer shall furnish bond in the sum and with sureties approved by the trustees. The water district shall pay the cost of the bond.

The trustees may adopt and establish bylaws consistent with the laws of this State and necessary for the convenience and the proper management of the affairs of the water district, and perform other acts within the powers delegated by law to the trustees.

The trustees ~~shall~~ must be sworn to the faithful performances of their duties including the duties of a member who serves as clerk or clerk pro tem. The trustees shall publish an annual report that includes a report of the treasurer.

Business of the district must be conducted in accordance with the applicable provisions of the ~~freedom of access laws, Title 1, sections 401 to 410~~ Freedom of Access Act.

**Sec. 24. 38 MRSA §640, sub-§4,** as enacted by PL 1989, c. 453, §2, is amended to read:

**4. Release of public information.** All information submitted to the agencies by the applicants for a license under the Federal Power Act ~~shall constitute~~ constitutes a public record pursuant to Title 1, section 402, unless such information is otherwise exempted from public disclosure by state law. Release of this information to members of the public ~~shall be~~ is governed by Title 1, section ~~408~~ 408-A.

**Sec. 25. Appropriations and allocations.** The following appropriations and allocations are made.

**ATTORNEY GENERAL, DEPARTMENT OF THE**

**Administration - Attorney General 0310**

Initiative: Provides funds to increase one part-time Assistant Attorney General position to full-time to serve as a Public Access Ombudsman.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNCIL	0.000	0.500
Personal Services	\$0	\$38,889
All Other	\$0	\$5,178
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$44,067</b>

See title page for effective date.

**CHAPTER 663  
H.P. 1117 - L.D. 1514**

**An Act To Amend the Sex Offender Registration Laws**

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

**Sec. 1. 5 MRSA §12004-I, sub-§74-G** is enacted to read:

**74-G.**

Public Safety	Sex Offender Risk Assessment Advisory Commission	Not Authorized	17-A MRSA §1401

**Sec. 2. 17-A MRSA Pt. 5** is enacted to read:

**PART 5**

**RISK ASSESSMENT OF SEX OFFENDERS**

**CHAPTER 57**

**SEX OFFENDER RISK ASSESSMENT ADVISORY COMMISSION**

**§1401. Establishment**

The Sex Offender Risk Assessment Advisory Commission, referred to in this chapter as "the commission," established by Title 5, section 12004-I, subsection 74-G, is created for the purpose of conducting a continuing study of methods that may be used to predict the risk of recidivism by a sex offender and to develop a method that may be used for such purposes. For purposes of this chapter, "sex offender" has the same meaning as "offender" in Title 34-A, section 11273, subsection 10.

**§1402. Membership; terms; vacancies**

**1. Composition; qualifications.** The commission is composed of 7 members, appointed by the Attorney General. The members may be qualified by reason of their expertise in sex offender matters, including but not limited to risk assessment methods.

corrections, sex offender law and the prosecution or defense of sex offender crimes.

2. Terms. Members of the commission serve for a term of 2 years and may be reappointed. Members continue to serve until their replacements are designated.

3. Vacancy. In the event of the death or resignation of a member, the Attorney General shall appoint a member to complete the unexpired term.

#### **§1403. Duties; powers**

1. Development of risk assessment. The commission shall:

A. Develop a plausible risk assessment method for reviewing and analyzing precursors to the commission of a sex offense, victim populations of sex offenders, living conditions and environment of a registrant or a sex offender and other factors predisposing a person to become a registrant or a sex offender and for the ongoing purpose of identifying risk factors;

B. Continue to evaluate the plausibility, implementation and application of sex offender risk assessments; and

C. Consult with experts in the field of sex offender matters, including but not limited to state or federal agencies, courts, correctional facilities, organizations whose affairs pertain to sex offender matters and other interested parties as the commission determines necessary.

2. Recommendations. The commission may submit to the Legislature, at the start of each legislative session, recommendations regarding a sex offender risk assessment method. The commission may also make recommendations regarding sex offender risk assessment to agencies of the executive branch, the judicial branch and the Legislature or to any other entity the commission determines appropriate.

For purposes of this section, "registrant" has the same meaning as in Title 34-A, section 11273, subsection 11.

#### **§1404. Organization; meetings**

The Attorney General shall notify all members of the commission of the time and place of the first meeting of the commission. At that meeting, the commission shall elect a chair, vice-chair and secretary-treasurer and adopt provisions regarding the administration of the commission and its affairs. The commission may meet as frequently as the commission determines necessary.

#### **§1405. Expenses**

Members of the commission may not be compensated for expenses incurred or related to the activities of the commission.

**Sec. 3. 34-A MRSA c. 17** is enacted to read:

### **CHAPTER 17**

## **SEX OFFENDER REGISTRATION AND NOTIFICATION ACT OF 2013**

### **SUBCHAPTER 1**

#### **GENERAL PROVISIONS**

#### **§11271. Short title**

This chapter may be known and cited as "the Sex Offender Registration and Notification Act of 2013." The purpose of this chapter is to protect the public from potentially dangerous registrants and offenders by enhancing access to information concerning those registrants and offenders.

#### **§11272. Application**

This chapter applies to:

1. Maine. A person who commits criminal conduct and is sentenced in this State on or after January 1, 2013 as an adult or as a juvenile sentenced as an adult for that criminal conduct and that criminal conduct is a Tier I offense, Tier II offense or Tier III offense; and

2. Other jurisdictions. A person who commits criminal conduct and is sentenced in another jurisdiction for that criminal conduct on or after January 1, 2013 as an adult or as a juvenile sentenced as an adult:

A. For an offense that requires registration in the jurisdiction of conviction pursuant to that jurisdiction's sex offender registration laws or that would have required registration had the person remained there;

B. For an offense that contains the essential elements of a Tier I offense, Tier II offense or Tier III offense; or

C. For a military, tribal or federal offense requiring registration pursuant to:

(1) The federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, also known as the Jacob Wetterling Act, Section 170101 of the federal Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, as amended; or

(2) The federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151.

#### **§11273. Definitions**

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

**1. Another state.** "Another state" means each of the several states except Maine, and includes the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa and the Northern Mariana Islands.

**2. Bureau.** "Bureau" means the Department of Public Safety, Bureau of State Police, State Bureau of Identification.

**3. Conditional release.** "Conditional release" means supervised release of a registrant or an offender from institutional confinement for placement on probation, parole, intensive supervision, supervised release for sex offenders, supervised community confinement, home release monitoring or release under Title 15, section 104-A or Title 17-A, chapter 54-G.

**4. Discharge.** "Discharge" means unconditional release and discharge of a registrant from institutional confinement upon the expiration of a sentence or upon discharge under Title 15, section 104-A.

**5. Domicile.** "Domicile" means the place where a person has that person's established, fixed, permanent or ordinary dwelling place or legal residence to which, whenever the person is absent, the person has the intention of returning. A person may have more than one residence but only one domicile.

**6. FBI.** "FBI" means the Federal Bureau of Investigation.

**7. Jurisdiction.** "Jurisdiction" means the Federal Government, including the military, this State, another state or a tribe.

**8. Law enforcement agency having jurisdiction.** "Law enforcement agency having jurisdiction" means the chief of police in the municipality where a registrant or an offender expects to be or is domiciled. If the municipality does not have a chief of police, "law enforcement agency having jurisdiction" means the sheriff of the county where the municipality is located. "Law enforcement agency having jurisdiction" also means the sheriff of the county in an unorganized territory.

**9. Motor vehicle.** "Motor vehicle" means a vehicle that is required to be registered pursuant to Title 29-A, section 351.

**10. Offender.** "Offender" means a person to whom this chapter applies pursuant to section 11272.

**11. Registrant.** "Registrant" means a Tier I registrant, Tier II registrant or Tier III registrant.

**12. Residence.** "Residence" means that place or those places, other than a domicile, in which a person may spend time living, residing or dwelling. Proof that an offender has lived in the State for 14 days continuously or an aggregate of 30 days within a period of one year gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person has

established a residence for the purposes of registration requirements imposed by this chapter.

**13. Sentence.** "Sentence," in addition to any punishment alternatives, includes an involuntary commitment under Title 15, section 103, or similar statute from another jurisdiction, following a verdict of not criminally responsible by reason of insanity or similar verdict in another jurisdiction.

**14. Tier I offense.** "Tier I offense" means a conviction for a Class E or Class D crime under the following or for an attempt, solicitation or conspiracy to commit a Class E, Class D or Class C crime under the following if the victim was less than 18 years of age at the time of the criminal conduct unless otherwise specified:

A. Title 17-A, chapter 11 including the following:

(1) Title 17-A, section 255-A, subsection 1, paragraph C, regardless of the age of the victim;

(2) Title 17-A, section 255-A, subsection 1, paragraph F-2, regardless of the age of the victim;

(3) Title 17-A, section 255-A, subsection 1, paragraph G, regardless of the age of the victim;

(4) Title 17-A, section 255-A, subsection 1, paragraph Q, regardless of the age of the victim;

(5) Title 17-A, section 255-A, subsection 1, paragraph W, regardless of the age of the victim; and

(6) Title 17-A, section 255-A, subsection 1, paragraph X, regardless of the age of the victim;

B. Title 17-A, chapter 12;

C. Title 17-A, section 511, subsection 1, paragraph D, regardless of the age of the victim;

D. Title 17-A, section 556, subsection 1, paragraph A, regardless of the age of the victim;

E. Title 17-A, section 855, subsection 1, paragraph A; and

F. A military, tribal or federal offense requiring registration pursuant to the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151.

If, pursuant to another jurisdiction's sex offender registration statute, the registration period is a period of up to 10 years or if the sex offender was not required to register in that other jurisdiction but the crime includes

the essential elements of an offense included in this subsection, the crime is a Tier I offense.

"Tier I offense" does not include unlawful sexual contact under Title 17-A, section 255-A, subsection 1, paragraph U or unlawful sexual touching under Title 17-A, section 260.

**15. Tier II offense.** "Tier II offense" means a conviction for a Class C crime under the following, or for an attempt, solicitation or conspiracy to commit a Class B crime under the following, if the victim was less than 18 years of age at the time of the criminal conduct unless otherwise specified:

A. Title 17-A, chapter 11 including the following:

(1) Title 17-A, section 253, subsection 2, paragraph J, if the victim had attained 18 years of age at the time of the offense;

(2) Title 17-A, section 253, subsection 2, paragraph K, regardless of the age of the victim;

(3) Title 17-A, section 253, subsection 2, paragraph L, regardless of the age of the victim;

(4) Title 17-A, section 255-A, subsection 1, paragraph J, regardless of the age of the victim;

(5) Title 17-A, section 255-A, subsection 1, paragraph R-1, regardless of the age of the victim;

(6) Title 17-A, section 255-A, subsection 1, paragraph R-2, regardless of the age of the victim; and

(7) Title 17-A, section 258, subsection 1-A, if the victim had not attained 12 years of age;

B. Title 17-A, chapter 12;

C. Title 17-A, section 855, subsection 1, paragraph B; and

D. A military, tribal or federal offense requiring registration pursuant to the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151.

If, pursuant to another jurisdiction's sex offender registration statute, the registration period is a period of more than 10 years but less than 26 years or if the sex offender was not required to register in that other jurisdiction but the crime includes the essential elements of an offense included in this subsection, the crime is a Tier II offense.

"Tier II offense" does not include unlawful sexual contact under Title 17-A, section 255-A, subsection 1,

paragraph V or unlawful sexual touching under Title 17-A, section 260.

**16. Tier III offense.** "Tier III offense" means a conviction for a Class B or Class A crime under the following or for an attempt, solicitation or conspiracy to commit a Class A crime under the following:

A. Title 17-A, chapter 11;

B. Title 17-A, chapter 12;

C. Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3);

D. Title 17-A, section 852, subsection 1; and

E. A military, tribal or federal offense requiring registration pursuant to the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151.

If, pursuant to another jurisdiction's sex offender registration statute, the registration period is a period of more than 25 years or if the sex offender was not required to register in that other jurisdiction but the crime includes the essential elements of an offense included in this subsection, the crime is a Tier III offense.

**17. Tier I registrant.** "Tier I registrant" means a person who is an adult convicted and sentenced or a juvenile convicted and sentenced as an adult for a Tier I offense.

**18. Tier II registrant.** "Tier II registrant" means a person who is an adult convicted and sentenced or a juvenile convicted and sentenced as an adult for a Tier II offense.

**19. Tier III registrant.** "Tier III registrant" means a person who is an adult convicted and sentenced or a juvenile convicted and sentenced as an adult for a Tier III offense or as provided for under section 11285, subsection 7.

**20. Tribe.** "Tribe" means the Passamaquoddy Tribe, the Penobscot Nation or the Houlton Band of Maliseet Indians.

#### **§11274. Rulemaking**

The bureau may adopt rules necessary to implement this chapter. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

### **SUBCHAPTER 2**

#### **SEX OFFENDER REGISTRATION**

##### **§11281. Maintenance of sex offender registry**

**1. Maintenance of registry.** The bureau shall establish and maintain a registry of persons required to register pursuant to this subchapter, referred to in this

section as "the registry." The registry must include the following information on each registrant:

A. The registrant's name, aliases, date of birth, sex, race, height, weight, eye color, land line and cellular telephone numbers, Internet identifiers, mailing address and physical location of expected domicile and residence. For purposes of this paragraph, "Internet identifiers" means e-mail addresses and other designations used for self-identification or routing in Internet communication or posting;

B. Place of employment and college or school being attended, if applicable, and the corresponding mailing address and physical location;

C. Offense history;

D. A current photograph and set of fingerprints;

E. A description of the offense for which the registrant was convicted, the date of conviction and the sentence imposed;

F. Whether the registrant is a Tier I registrant, Tier II registrant or Tier III registrant;

G. A copy of any driver's license information and copy of the driver's license;

H. A copy of any professional license;

I. Passport and immigration documents and social security number;

J. Temporary lodging and dates of travel;

K. Information about motor vehicles owned, leased or used and registration and location of those motor vehicles. For purposes of this paragraph, "lease" means a transfer of the right to possession and use of a motor vehicle for a term of 30 days or more in return for consideration; and

L. Any other information the bureau determines important.

**2. National or regional registry.** The bureau is authorized to make the registry available to and accept files from a national or regional registry of registrants for the purpose of sharing information.

**3. Registration form.** The bureau shall develop a standardized registration form to be made available to the appropriate reporting authorities and persons required to register.

**4. Verification form.** The bureau shall develop and mail a nonforwardable verification form to the last reported mailing address of each person required to meet the verification requirements of this chapter.

**5. Distribution of information to department and law enforcement agencies.** The bureau shall distribute information described in subsection 1 to the department and law enforcement agencies having ju-

isdiction over the mailing address and physical location of the registrant's domicile, residence, place of employment and college or school being attended, if applicable.

**6. Criminal justice agency access to information.** The bureau shall provide access to the information described in subsection 1 to criminal justice agencies. For purposes of this subsection, "criminal justice agency" has the same meaning as in Title 16, section 611, subsection 4.

**7. Public access to registrant information.** The bureau shall provide information to the public as follows.

A. The bureau shall post on the Internet for public inspection the following information concerning a registrant who is a Tier I registrant, Tier II registrant or Tier III registrant:

(1) The registrant's name, aliases and date of birth and a current photograph;

(2) The registrant's city or town of domicile and residence;

(3) The registrant's place of employment and college or school being attended, if applicable, and the corresponding mailing address and physical location;

(4) The statutory citation and name of the offense for which the registrant was convicted;

(5) Whether the registrant is a Tier I registrant, a Tier II registrant or a Tier III registrant;

(6) Verification requirements and date of last verification; and

(7) The registrant's address and its location on a map.

B. The bureau shall establish an e-mail notification system to alert a member of the public who has subscribed annually to the e-mail notification system when a registrant moves into the subscriber's geographic area.

C. Upon receiving a written request that includes the name and date of birth of a registrant, the bureau shall provide the following information concerning a registrant to the requestor:

(1) The registrant's name, aliases, date of birth, sex, race, height, weight, eye color, mailing address and physical location of domicile and residence;

(2) The registrant's place of employment and college or school being attended, if applicable, and the corresponding mailing address and physical location;

(3) A description of the offense for which the registrant was convicted, the date of conviction and the sentence imposed; and

(4) The registrant's photograph.

**8. Registrant access to information.** The bureau shall provide all information described in subsection 1 to a registrant who requests that person's own information.

**9. Registry information.** Registry information created, collected or maintained by the bureau, including, but not limited to, information relating to the identity of persons accessing the registry, is confidential except information provided to the public pursuant to subsection 7.

**10. Maintenance by bureau.** Only the bureau is authorized to maintain a sex offender registry on the Internet for purposes of public access.

**11. Law enforcement agency website.** Notwithstanding subsection 10, a law enforcement agency may maintain its own sex offender website and may make that information available for use by the public if:

A. A notice is prominently posted on the website that expressly states that the website is not the official state sex offender registry under subsection 7, paragraph A and that the law enforcement agency posting the website is solely responsible for the website's content;

B. The website provides a link to the bureau's Internet sex offender registry under subsection 7, paragraph A;

C. The website contains information regarding only registrants who are domiciled, reside, attend college or school or work within the posting law enforcement agency's jurisdiction; and

D. The information on the website is updated by the law enforcement agency as frequently as available resources permit, but no less often than every 7 days. The law enforcement agency shall also prominently post on the website the date and time of the most recent update to the website.

**12. Access to registrant information existing in electronic form restricted.** Notwithstanding Title 1, chapter 13:

A. Except for information provided pursuant to subsection 2 and made available to the public through the bureau's website pursuant to subsection 7, paragraph A, the bureau may not disseminate in electronic form information about a registrant that is created, collected or maintained in electronic form by or for the bureau; and

B. Except for information made available to the public through a website maintained by a law enforcement agency pursuant to subsection 11, a law

enforcement agency may not disseminate in electronic form information about a registrant that is collected or maintained in electronic form by or for that law enforcement agency.

### **§11282. Duty of offender to register**

**1. Notification by court, department, bureau or law enforcement agency.** An offender has a duty to register under this chapter after notification has been given to the offender by a court of jurisdiction, the department, the bureau or a law enforcement agency. The court shall notify the offender at the time of sentence of the duty to register pursuant to this chapter. Notification of the duty to register under this chapter also may be given to the offender at any time after the imposition of sentence.

At any time, the bureau may correct the term of a registration erroneously assigned to an offender or registrant. In such instances, the bureau shall notify the offender or registrant, the district attorney and the court in the jurisdiction where the conviction occurred and the law enforcement agency having jurisdiction where the offender or registrant is domiciled, resides, is employed or attends college or school, if applicable.

**2. When duty to register must be exercised.** Following notification by a court, the department, the bureau or a law enforcement agency under subsection 1, an offender shall register as follows.

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

B. If the offender is sentenced to a straight term of imprisonment or to a split sentence, the duty to register is triggered by discharge or conditional release.

C. If the offender is committed under Title 15, section 103, the duty to register is triggered by discharge or conditional release under Title 15, section 104-A.

D. If the events stated in paragraphs A to C have passed, an offender must register within 3 days after having received notice of that duty from a court, the department, the bureau or a law enforcement agency.

E. Proof that the name and date of birth of the person notified of the duty to register pursuant to this chapter are the same as those of a person who has been found not guilty by reason of insanity or

convicted of an offense requiring registration pursuant to this chapter gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person notified of the duty to register is the same person as that person convicted of the offense requiring registration.

**3. Duty to notify law enforcement agency.** An offender shall notify the law enforcement agency having jurisdiction in those areas where the offender is domiciled, resides, works or attends school within 24 hours of becoming a domiciliary or a resident or beginning work or attending school. If the location is a municipality with an organized municipal police department, the law enforcement agency having jurisdiction is the municipal police department. If the location is a school having an organized police department, the law enforcement agency having jurisdiction is the campus police department. If the location is neither a municipality nor a school with an organized police department, the law enforcement agency having jurisdiction is the sheriff's department.

**4. Responsibility of ensuring initial registration.** The department, the county jail or the state mental health institute that has custody of an offender shall inform the offender, prior to discharge or conditional release, of the duty to register. If an offender does not serve a period of institutional confinement, the court shall inform the offender at the time of sentencing of the duty to register. The department, county jail, state mental health institute or court shall:

A. Inform the offender of the duty to register and obtain the information required for the initial registration;

B. Inform the offender of the requirement to notify the law enforcement agency having jurisdiction pursuant to subsection 3;

C. Inform the offender that if the offender changes domicile or changes residence, place of employment or college or school being attended, the offender shall give the new address to the bureau in writing within 3 days and shall notify the law enforcement agency having jurisdiction within 24 hours;

D. Inform the offender that if that offender changes domicile to another jurisdiction, the offender shall register the new address with the bureau and if the new jurisdiction has a registration requirement, the offender shall register with a designated law enforcement agency in the new state not later than 3 days after establishing domicile in the new state;

E. Inform the offender that if that offender has part-time or full-time employment in another state, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year or if that of-

fender enrolls in any type of school in another state on a part-time or full-time basis, the offender shall give the bureau the offender's place of employment or school to be attended in writing within 3 days after beginning work or attending school and if the other state has a registration requirement, shall register with the designated law enforcement agency in the other state;

F. Obtain fingerprints and a current photograph of the offender. The court may order the offender to submit to the taking of fingerprints and a photograph at a specified law enforcement agency within 3 days if the fingerprints and photograph have not already been obtained in connection with the offense that necessitates registration; and

G. Enforce the requirement that the offender read and sign a form provided by the bureau that states that the duty of the offender to register under this section has been explained.

**5. Transfer of initial registration information to bureau and FBI.** The department, county jail, state mental health institute or court within 3 days of receipt of the information described in subsection 4 shall forward the information to the bureau. If the court orders the offender to submit to the taking of fingerprints and a photograph at a specified law enforcement agency, the law enforcement agency shall submit the fingerprints and photograph to the bureau within 3 days. The bureau shall immediately enter the information into the registration system, notify the law enforcement agencies having jurisdiction where the offender expects to be domiciled and reside and transmit the information to the FBI for inclusion in the national FBI sex offender database.

**6. Verification.** During the period a registrant is required to register, the bureau shall require the registrant to verify all registration information. The following provisions govern the verification of registration information.

A. At least 10 days prior to the required verification date, the bureau shall mail a nonforwardable verification form to the last reported mailing address of the registrant. The verification form is deemed received 3 days after mailing unless returned by postal authorities.

B. The registrant shall bring the completed verification form and a current photograph of the registrant to the law enforcement agency having jurisdiction within 5 days of receipt of the form.

C. The law enforcement agency having jurisdiction shall verify the registrant's identity, have the registrant sign the verification form, take the registrant's fingerprints, complete the law enforcement portion of the verification form and immediately forward the fingerprints, photograph and form to the bureau.

**7. Frequency of verification.** The frequency of in-person verification of registration information is dependent upon the registrant's tier classification as follows.

A. A Tier III registrant shall register for the duration of the registrant's life and shall verify registration information every 90 days after the registrant's initial registration date.

B. A Tier II registrant shall register for 25 years and shall verify registration information every 180 days after the registrant's initial registration date.

C. A Tier I registrant shall register for 10 years and shall verify registration information annually after the registrant's initial registration date.

**8. Change of domicile, residence, place of employment or college or school being attended.** An offender or registrant shall notify the bureau in writing of a change of residence, domicile, place of employment or college or school being attended within 3 days and shall notify the law enforcement agency having jurisdiction within 24 hours after changing that domicile, residence, place of employment or college or school being attended.

A. If the offender or registrant establishes a new domicile, residence, place of employment or college or school being attended in the State, the bureau shall notify, within 3 days, both the law enforcement agency having jurisdiction where the offender or registrant was formerly domiciled or resided or was employed or enrolled and the law enforcement agency having jurisdiction where the offender or registrant is currently domiciled, residing, employed or enrolled.

B. If the offender or registrant establishes a domicile, residence, place of employment or college or school being attended in another state, the bureau shall notify, within 3 days, the law enforcement agency having jurisdiction where the offender or registrant was formerly domiciled or resided or was employed or enrolled and the law enforcement agency having jurisdiction where the offender or registrant is currently domiciled, residing, employed or enrolled.

**§11283. Duty of person establishing domicile or residence in this State to register**

A person who has been sentenced for a military, tribal or federal offense requiring registration pursuant to the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151 or in a jurisdiction other than this State who is required under that jurisdiction to register pursuant to that jurisdiction's sex offender registration statute or would have been required to register if the person had remained in the jurisdiction or, if not so required, who has been sentenced for an

offense that includes the essential elements of a Tier I, Tier II or Tier III offense shall register as a Tier I registrant, a Tier II registrant or a Tier III registrant, whichever is applicable, within 3 days and shall notify the law enforcement agency having jurisdiction within 24 hours of establishing domicile or residence in this State. The person shall contact the bureau, which shall provide the person with the registration form and direct the person to take the form and a current photograph of the person to the law enforcement agency having jurisdiction. The law enforcement agency shall supervise the completion of the form, take the person's fingerprints and immediately forward the form, photograph and fingerprints to the bureau.

**§11284. Duty of person employed or attending college or school in this State to register**

The following provisions govern registration duties for a person not domiciled or residing in this State but who is employed or attending college or school in this State.

**1. Time.** A person who has been sentenced for a military, tribal or federal offense requiring registration pursuant to the federal Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248, 42 United States Code, Chapter 151 or in a jurisdiction other than this State and who is required under that jurisdiction to register pursuant to that jurisdiction's sex offender registration statute or would have been required to register if the person had remained in that jurisdiction or, if not so required, who has been sentenced for an offense that includes the essential elements of a Tier I, Tier II or Tier III offense shall register as a Tier I registrant, a Tier II registrant or a Tier III registrant, whichever is applicable, within 3 days and shall notify the law enforcement agency having jurisdiction:

A. Within 24 hours of beginning full-time or part-time employment, with or without compensation, for more than 14 consecutive days or for an aggregate period exceeding 30 days in a calendar year in this State; or

B. Within 24 hours of beginning college or school on a full-time or part-time basis in this State.

**2. Process for notifying bureau.** The person under subsection 1 shall contact the bureau, which shall provide the person with a registration form and direct the person to take the form and a current photograph of the person to the law enforcement agency having jurisdiction. The law enforcement agency shall supervise the completion of the form, take the person's fingerprints and immediately forward the form, photograph and fingerprints to the bureau.

**§11285. Duration of registration**

The following provisions govern the duration of registration.

**1. Offender convicted and sentenced in State for Tier I offense.** An offender convicted and sentenced in this State for a Tier I offense shall register for a period of 10 years. The 10-year period commences from the date the person in fact initially registers once the legal duty arises under section 11282, subsection 2.

**2. Offender convicted and sentenced in another jurisdiction for Tier I offense.** An offender convicted and sentenced in another jurisdiction and required to register in this State pursuant to section 11283 or 11284 shall register for a period of 10 years or as provided in subsection 7. The following provisions apply.

A. A Tier I registrant shall register in this State for a period of 10 years if, pursuant to the other jurisdiction's sex offender registration statute, the registration period is for a period of no more than 10 years. The 10-year period commences from the date the person in fact initially registers in this State once the legal duty to register arises under section 11283 or 11284. However, the Tier I registrant may receive day-for-day credit for the time actually registered pursuant to the other jurisdiction's sex offender registration statute prior to registering in this State upon applying to the bureau for credit. The bureau may grant credit if the registrant provides sufficient documentation in accordance with any rules adopted by the bureau.

B. A Tier I registrant shall register for a period of 10 years if registration was not required in that other jurisdiction and the person has been sentenced in that jurisdiction for a crime that includes the essential elements of a Tier I offense. The 10-year period commences from the date the person in fact initially registers in this State once the legal duty to register arises under section 11283 or 11284. However, the Tier I registrant may receive day-for-day credit from the time of sentencing in the other jurisdiction to when the offender in fact initially registers in this State once the legal duty to register arises under section 11283 or 11284 and upon applying to the bureau for credit. The bureau may grant credit if the registrant provides sufficient documentation in accordance with any rules adopted by the bureau.

**3. Offender convicted and sentenced in State for Tier II offense.** An offender convicted and sentenced in this State for a Tier II offense shall register for a period of 25 years. The 25-year period commences from the date the person in fact initially registers once the legal duty arises under section 11282, subsection 2.

**4. Offender convicted and sentenced in another jurisdiction for Tier II offense.** An offender convicted and sentenced in another jurisdiction and required to register in this State pursuant to section 11283 or 11284 shall register for a period of 25 years. The following provisions apply.

A. A Tier II registrant shall register in this State for a period of 25 years if, pursuant to the other jurisdiction's sex offender registration statute, the registration period is for a period of more than 10 years and no more than 25 years. The 25-year period commences from the date the person in fact initially registers in this State once the legal duty to register arises under section 11283 or 11284. However, the Tier II registrant may receive day-for-day credit for the time actually registered pursuant to the other jurisdiction's sex offender registration statute prior to registering in this State upon applying to the bureau for credit. The bureau may grant credit if the registrant provides sufficient documentation in accordance with rules adopted by the bureau.

B. A Tier II registrant shall register for a period of 25 years if registration was not required in that other jurisdiction and the person has been sentenced in that jurisdiction for a crime that includes the essential elements of a Tier II offense. The 25-year period commences from the date the person in fact initially registers in this State once the legal duty to register arises under section 11283 or 11284. However, the Tier II registrant may receive day-for-day credit from the time of sentencing in the other jurisdiction to when the offender in fact initially registers in this State once the legal duty to register arises under section 11283 or 11284 and upon applying to the bureau for credit. The bureau may grant credit if the registrant provides sufficient documentation in accordance with any rules adopted by the bureau.

**5. Offender convicted and sentenced in State for Tier III offense.** An offender convicted and sentenced in this State for a Tier III offense shall register for the duration of the offender's life.

**6. Offender convicted and sentenced in another jurisdiction for Tier III offense.** An offender convicted and sentenced in another jurisdiction and required to register in this State pursuant to section 11283 or 11284 shall register for the duration of the registrant's life.

A. A Tier III registrant shall register in this State for the duration of the registrant's life if, pursuant to the other jurisdiction's sex offender registration statute, the registration period is for the duration of the offender's life.

B. A Tier III registrant shall register in this State for the duration of the registrant's life if registra-

tion was not required in that other jurisdiction and the person was convicted and sentenced in that jurisdiction for a crime that includes the essential elements of a Tier III offense.

**7. Additional offense.** Notwithstanding section 11273, subsections 14 and 15, a person who has been convicted and sentenced at any time for 2 or more offenses each of which is a Tier I offense or Tier II offense or includes the essential elements of a Tier I offense or Tier II offense is required to register as a Tier III registrant. For purposes of this subsection, convictions that occur on the same day count as separate offenses.

**8. Periods when domiciled or residing outside State or incarcerated.** Notwithstanding any other provision of this section, during any period in which a registrant or offender leaves this State, establishes a domicile or residence in another state and remains physically absent from this State or is incarcerated, the bureau, pursuant to any rules the bureau may adopt, may suspend the requirement that the registrant or offender verify registration information.

**9. Relief from duty to register.** The following provisions apply to relief from the duty to register.

**A.** An offender's or a registrant's duty to register is not required if the circumstances triggering the registration requirements under section 11283 or 11284 no longer exist.

**B.** If the underlying conviction in this State or in another jurisdiction that triggers the registration requirement is reversed, vacated or set aside or if the offender or registrant is pardoned for the crime, registration is no longer required.

**§11286. Duty of person traveling beyond the jurisdiction of the United States**

An offender shall notify the bureau at least 21 days prior to travel beyond the jurisdiction of the United States. The offender shall provide the bureau with information about the date of departure from and return to the United States and the destination beyond the jurisdiction of the United States.

**§11287. Fee**

The bureau may charge a \$25 annual fee to persons required to register under this chapter. Registrants shall pay the fee at the time of initial registration and shall pay the fee on each anniversary of their initial registration.

The fee must be credited to the General Fund and the Highway Fund in an amount consistent with budgeted appropriations and allocations in the fiscal year of the credit.

**§11288. Violation**

**1. Failure to comply; first offense.** An offender who in fact fails to comply with any duty imposed under this chapter or a rule adopted pursuant to this chapter commits a Class D crime.

**2. Failure to comply; 2nd offense.** A person who has one prior conviction under this section and who in fact fails to comply with any duty imposed under this chapter or a rule adopted pursuant to this chapter commits a Class C crime.

**3. Failure to comply; 3rd offense.** A person who has 2 or more prior convictions under this section and who in fact fails to comply with any duty imposed under this chapter or a rule adopted pursuant to this chapter commits a Class B crime.

**4. Strict liability.** Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

**5. Prior convictions.** Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

**6. Affirmative defense.** It is an affirmative defense that the failure to comply with a duty imposed under this chapter or a rule adopted pursuant to this chapter resulted from just cause.

**7. Permissible inference.** Proof that the name and date of birth of the person charged with a violation of this section are the same as those of a person who has been sentenced for an offense requiring registration pursuant to this chapter gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person charged with a violation of this section is the same person as that person convicted of the offense requiring registration.

**§11289. Certification by record custodian**

Notwithstanding any other law or rule of evidence, a certificate by the custodian of the records of the bureau, when signed and sworn to by that custodian, or the custodian's designee, is admissible in a judicial or administrative proceeding as prima facie evidence of any fact stated in the certificate or in any documents attached to the certificate.

**SUBCHAPTER 3**

**NOTIFICATION**

**§11301. Immunity from liability**

Neither the failure to perform the requirements of this chapter nor compliance with this chapter subjects any state, municipal or county official or employee to liability in a civil action. The immunity provided under this section applies to the release of relevant information to other officials or employees or to the general public.

**§11302. Community education**

The department shall provide law enforcement agencies technical assistance concerning community education curricula for purposes of notification to the public of a registrant's conditional release or discharge.

**§11303. Mandatory notification of conditional release or discharge of registrants**

The department, county jails, state mental health institutes and the bureau are governed by the following notice provisions when a registrant is conditionally released or discharged.

**1. Duties.** The department, a county jail or a state mental health institute shall give the bureau notice of the following:

- A. The address where the registrant will be domiciled and reside;
- B. The address where the registrant will work and attend college or school, if applicable;
- C. The mailing address of the registrant; and
- D. The geographic area to which a registrant's conditional release is limited, if any.

**2. Duties of the bureau.** Upon receipt of the information concerning the conditional release or discharge of a registrant pursuant to subsection 1, the bureau shall forward the information to all law enforcement agencies that have jurisdiction in those areas where the registrant may be domiciled, reside, work or attend college or school.

**§11304. Public notification**

**1. Department.** Upon the conditional release or discharge of a registrant from a state correctional institution, the department shall give notice of the information under section 11303, subsection 1 to members of the public the department determines appropriate to ensure public safety.

**2. Law enforcement agencies.** Upon receipt of the information concerning the conditional release or discharge of a registrant pursuant to section 11303, subsection 2, a law enforcement agency shall notify members of the public that the law enforcement agency determines appropriate to ensure public safety.

**Sec. 4. Review of Colorado's Sex Offender Management Board.** The Sex Offender Risk Assessment Advisory Commission, established in the Maine Revised Statutes, Title 5, section 12004-I, subsection 74-G shall review the structure and duties of Colorado's Sex Offender Management Board established under the Colorado Revised Statutes, section 16-11.7-101 through section 16-11.7-107. The commission shall report its findings and recommendations regarding Colorado's Sex Offender Management Board to the joint standing committee of the Legislature having jurisdiction over criminal justice and pub-

lic safety matters on or before January 5, 2013. The joint standing committee may report out a bill implementing the recommendations of the commission to the First Regular Session of the 126th Legislature.

**Sec. 5. Appropriations and allocations.**

The following appropriations and allocations are made.

**ATTORNEY GENERAL, DEPARTMENT OF THE**

**Administration - Attorney General 0310**

Initiative: Provides funds for one Assistant Attorney General position and related costs to provide legal advice concerning the Sex Offender Registration and Notification Act of 2013.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS -	0.000	1.000
LEGISLATIVE COUNCIL		
Personal Services	\$0	\$78,101
All Other	\$0	\$5,178
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	\$83,279

**ATTORNEY GENERAL, DEPARTMENT OF THE DEPARTMENT TOTALS**

	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$83,279</b>
	<hr/>	<hr/>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$83,279</b>

**PUBLIC SAFETY, DEPARTMENT OF State Police 0291**

Initiative: Provides one-time funding for programming changes to the sex offender registry.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$100,000
	<hr/>	<hr/>
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$100,000

**PUBLIC SAFETY, DEPARTMENT OF DEPARTMENT TOTALS**

	<b>2011-12</b>	<b>2012-13</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$100,000</b>

DEPARTMENT TOTAL - ALL FUNDS	\$0	\$100,000
SECTION TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$83,279
FEDERAL EXPENDITURES FUND	\$0	\$100,000
SECTION TOTAL - ALL FUNDS	\$0	\$183,279

See title page for effective date.

**CHAPTER 664  
S.P. 64 - L.D. 213**

**An Act To Provide Funding for the Fish Stocking Program**

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

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

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF Fisheries and Hatcheries Operations 0535**

Initiative: Appropriates ongoing funds beginning in fiscal year 2012-13 for the purchase of fish for the fish stocking program.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$200,000
GENERAL FUND TOTAL	\$0	\$200,000

See title page for effective date.

**CHAPTER 665  
H.P. 632 - L.D. 835**

**An Act To Strengthen Maine's Economy through Improvements to the Educational Opportunity Tax Credit**

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

**Sec. 1. 20-A MRS §12541, sub-§1-A** is enacted to read:

**1-A. Accredited non-Maine community college, college or university.** "Accredited non-Maine community college, college or university" means an institution located outside the State that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States Secretary of Education.

**Sec. 2. 20-A MRS §12542, sub-§3, ¶B,** as amended by PL 2009, c. 553, Pt. A, §10, is further amended to read:

B. An individual must attend and obtain an associate degree or a bachelor's degree from an accredited Maine community college, college or university. The individual need not obtain the degree from the institution in which that individual originally enrolled, as long as all course work toward the degree is performed at accredited Maine community colleges, colleges or universities. Beginning January 1, 2013, an individual who transfers to an accredited Maine community college, college or university after completing the equivalent of up to 30 credit hours of course work toward a degree at an accredited non-Maine community college, college or university is eligible for a portion of the benefits that would have been available under the program had the individual performed all course work at an accredited Maine community college, college or university. Such an individual is eligible for 1/2 of the educational opportunity tax credit in the case of obtaining an associate degree and 3/4 of the educational opportunity tax credit in the case of obtaining a bachelor's degree. Program eligibility for such an individual must be determined as if the commencement of course work at the relevant accredited Maine community college, college or university was the commencement of course work for the degree program as a whole;

**Sec. 3. 20-A MRS §12542, sub-§3, ¶C,** as amended by PL 2009, c. 553, Pt. A, §10, is further amended to read:

C. An individual must live in this State while pursuing the degree, excepting periods when it is reasonably necessary for the individual to live elsewhere as part of the relevant institution's academic programs or while pursuing course work at an accredited non-Maine community college, college or university as provided in paragraph B. The individual must also agree to live in this State after obtaining the degree during any period when

that individual seeks to take advantage of the educational opportunity tax credit; and

**Sec. 4. 20-A MRSA §12542, sub-§3-A, ¶A,** as enacted by PL 2009, c. 553, Pt. A, §11, is amended to read:

A. The individual may claim the educational opportunity tax credit only with respect to loans that are part of that individual's financial aid package and that have a term of at least 8 years are entered into before July 1, 2023.

**Sec. 5. 20-A MRSA §12545** is enacted to read:

**§12545. Report**

By February 1, 2021, each accredited Maine community college, college and university, as defined in section 12541, subsection 1, shall report to the department on efforts to promote and enroll individuals in the program and to train admissions and financial aid staff about the program. By March 1, 2021, the department shall report findings and recommendations regarding the program to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the joint standing committee of the Legislature having jurisdiction over taxation matters. By March 1, 2021, the Department of Administrative and Financial Services, Bureau of Revenue Services shall report on implementation of the educational opportunity tax credit, including statistics on credits claimed, to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the joint standing committee of the Legislature having jurisdiction over taxation matters.

**Sec. 6. 36 MRSA §199-C, sub-§3** is enacted to read:

**3. Specific tax expenditure review.** By June 1, 2021, the committee shall review the income tax credit under section 5217-D to determine whether the credit should be retained, repealed or modified. The committee shall consider information provided by the bureau and the Department of Education pursuant to Title 20-A, section 12545.

**Sec. 7. 36 MRSA §5217-D, sub-§1, ¶A-1** is enacted to read:

A-1. "Accredited non-Maine community college, college or university" means an institution located outside the State that is accredited by a regional accrediting association or by one of the specialized accrediting agencies recognized by the United States Secretary of Education.

**Sec. 8. 36 MRSA §5217-D, sub-§1, ¶E,** as enacted by PL 2007, c. 469, Pt. B, §1, is amended to read:

E. "Qualified employee" means an employee ~~who is eligible for the credit provided in this section~~

~~and who is employed at least part time and who is eligible for the credit provided in this section or who would be eligible for the credit in this section by meeting all the criteria established under Title 20-A, section 12542 except that the employee's associate or bachelor's degree was awarded by an accredited non-Maine community college, college or university.~~

**Sec. 9. 36 MRSA §5217-D, sub-§1, ¶H,** as enacted by PL 2007, c. 469, Pt. B, §1, is repealed and the following enacted in its place:

H. "Resident individual" means someone:

(1) Who is domiciled in this State; or

(2) Who is not domiciled in this State, but maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State, unless the individual is a member of the Armed Forces of the United States.

**Sec. 10. 36 MRSA §5217-D, sub-§2,** as enacted by PL 2007, c. 469, Pt. B, §1, is repealed and the following enacted in its place:

**2. Credit allowed.** A taxpayer constituting an opportunity program participant or an employer of a qualified employee is allowed a credit against the tax imposed by this Part for each taxable year under the terms established in this section. The credit is created to implement the Job Creation Through Educational Opportunity Program established under Title 20-A, chapter 428-C.

A. A taxpayer entitled to the credit for any taxable year may carry over and apply to the tax liability for any one or more of the next succeeding 10 years the portion, as reduced from year to year, of any unused credits.

B. More than one taxpayer may claim a credit based on loan payments actually made to a relevant lender or lenders to benefit a single opportunity program participant, but no 2 taxpayers may claim the credit based on the same payment.

C. Except as provided in paragraph D, the credit may not reduce the tax otherwise due under this Part to less than zero. The credit allowed to an employer of a qualified employee may not reduce the tax otherwise due under this Part to less than zero.

D. Notwithstanding paragraph C, the credit allowed to an opportunity program participant is refundable if the opportunity program participant obtains an associate degree or bachelor's degree in science, technology, engineering or mathematics.

**Sec. 11. 36 MRSA §5217-D, sub-§4**, as enacted by PL 2007, c. 469, Pt. B, §1, is amended to read:

**4. Conditions for an opportunity program participant claiming the credit.** An opportunity program participant may claim the credit only if the participant is a resident individual. The participant may claim the credit based only on regular payments made during months in which the individual was working for an employer located in this State or was deployed for military service in the United States Armed Forces, including the National Guard and the Reserves of the United States Armed Forces. As used in this subsection, "deployed for military service" has the same meaning as in Title 26, section 814, subsection 1, paragraph A. A married couple filing jointly under Title 36, section 5221 may claim the credit only to the extent that the spouse on whose behalf the credit is claimed meets these requirements.

**Sec. 12. 36 MRSA §5217-D, sub-§5**, as amended by PL 2009, c. 434, §78, is further amended to read:

**5. Conditions for an employer claiming the credit.** A taxpayer constituting an employer may claim the credit under this section under the following circumstances. The employer may undertake to make partial or full loan payments directly to the relevant lender or lenders on behalf of a qualified employee, having taken reasonable steps to ascertain that the employee is in fact a qualified employee, and may claim a credit based on amounts that came due and were paid by the employer during the term of employment. To receive the credit, the employer must retain for 5 years any proof of eligibility that the employee or independent contractor provides.

The employer may claim a credit for the amount that the qualified employee could have claimed during any months when the qualified employee was employed, had the qualified employee made the partial or full loan payments instead, under conditions where the qualified employee had sufficient income to claim the full credit for the taxable year. If the qualified employee is employed only on a part-time basis, the employer may claim a credit only up to half of the total that the qualified employee could have claimed had the qualified employee made all payments and earned sufficient income to claim the full credit for the taxable year, but the amount the employer claims must still be based on amounts actually paid. An employer is not disqualified under this section if the qualified employee is not eligible to claim the credit solely because the employee's associate degree or bachelor's degree was awarded by an accredited non-Maine community college, college or university.

**Sec. 13. Application.** The portions of this Act that amend the Maine Revised Statutes, Title 36, sec-

tion 5217-D apply to tax years beginning on or after January 1, 2013.

See title page for effective date.

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**CHAPTER 666**

**H.P. 298 - L.D. 372**

**An Act To Reduce Deer Predation**

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

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

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

**Resource Management Services - Inland Fisheries and Wildlife 0534**

Initiative: Appropriates ongoing funds to control predation of deer on private and public lands.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$100,000
GENERAL FUND TOTAL	\$0	\$100,000

See title page for effective date.

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**CHAPTER 667**

**H.P. 457 - L.D. 627**

**An Act To Expand the Capacity of York County Community College**

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

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

**COMMUNITY COLLEGE SYSTEM, BOARD OF TRUSTEES OF THE MAINE**

**Maine Community College System - Board of Trustees 0556**

Initiative: Provides ongoing funds to the York County Community College to respond to the demand for skilled workers in the precision machining industry.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$257,000

GENERAL FUND TOTAL \$0 \$257,000

See title page for effective date.

**CHAPTER 668  
H.P. 933 - L.D. 1242**

**An Act To Restore the Deer  
Herd in Certain Wildlife  
Management Districts  
in Maine**

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

**Sec. 1. 12 MRSA §10105, sub-§14** is enacted to read:

**14. Regulating the feeding of deer.** The commissioner may by rule:

A. Prohibit the feeding of deer at any location if there is documented evidence of chronic wasting disease, as defined in Title 7, section 1821, subsection 1, in the State; and

B. Prohibit or otherwise limit the feeding of deer if the department has reason to believe that the type or location of feed is creating a public safety hazard or having a detrimental effect on the deer.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 12 MRSA §10151, sub-§4, ¶B**, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

B. The advisory council shall hold regular meetings with the commissioner or the commissioner's deputy in December and May of each year and may hold special meetings at such other times and places as are advisable. The commissioner may direct advisory council members to convene stakeholder groups in their respective geographic or management expertise areas to obtain information and advice on enhancing fisheries and wildlife resource management in the State. At least annually, the commissioner shall direct advisory council members to convene stakeholder group meetings in strategic areas of the State where deer populations need to be enhanced. Notwithstanding subsection 3, advisory council members are not eligible for compensation for meetings under this paragraph pursuant to Title 5, section 12004-G, subsection 20.

**Sec. 3. 12 MRSA §10264**, as reallocated by RR 2011, c. 1, §14, is amended to read:

**§10264. Maine Deer Management Fund**

The ~~Predator Control and Deer Habitat Fund~~ Maine Deer Management Fund, referred to in this section as "the fund," is established within the department as a nonlapsing fund to be used by the commissioner to fund or assist in funding predator control and to enhance deer habitat. The commissioner shall establish on the department's online licensing system checkoff options that allow a person to donate money for predator control or deer habitat enhancement. The checkoff options must be prominently displayed and contain web links to information about how the checkoff revenues have been and will be used. The commissioner shall also print in a prominent place on every paper application for a hunting license checkoff options that allow a person to donate money to the fund for predator control or deer habitat enhancement. Revenues from the checkoffs must be deposited in the fund and used for purposes indicated by the checkoffs.

Notwithstanding section 10801, subsection 4, \$2 of each deer registration fee collected under section 12301-A, subsection 3, paragraph C must be deposited in the fund. Fifty percent of the funds deposited in the fund from the deer registration fees must be used for predator control purposes and 50% of the deposited fees must be used to enhance deer habitat. The commissioner may accept and deposit into the fund monetary gifts, donations or other contributions from public or private sources for the purposes specified in this section. The fund must be held separate and apart from all other money, funds and accounts. The department shall report annually to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters on the fund and its utilization.

**Sec. 4. Appropriations and allocations.** The following appropriations and allocations are made.

**INLAND FISHERIES AND WILDLIFE,  
DEPARTMENT OF**

**Resource Management Services - Inland Fisheries and Wildlife 0534**

Initiative: Allocates funding for deer predation control and enhancement of deer habitat.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$38,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$38,000

See title page for effective date.

**CHAPTER 669**  
**S.P. 439 - L.D. 1422**

**An Act To Prepare Maine  
People for the Future Economy**

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

**Sec. 1. 20-A MRSA §253, sub-§9** is enacted to read:

**9. Transition to standards-based educational system.** In order to facilitate the transformation of the public education system to one in which standards are used to guide curriculum and instruction and in which student advancement and graduation are based on student demonstration of proficiency in meeting educational standards, the commissioner may waive or alter any provision of this Title as specified in an approved plan for transitioning to proficiency-based graduation in accordance with section 4722-A as the provision pertains to requiring or prohibiting an action based on the age or grade level of a student. This authority applies to all age-based or grade-based requirements, except that the commissioner may not waive or alter:

A. Requirements imposed by federal law, or imposed by state law in order to comply with federal law, including but not limited to requirements relating to assessment and special education;

B. Compulsory attendance and eligibility to enroll standards;

C. Provisions relating to public funding, including tuition rates;

D. Health-related provisions, if advised by health professionals not to alter the requirements; and

E. Provisions of this Title that are not administered by the commissioner, including but not limited to certain provisions relating to institutions of higher education.

The commissioner shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection before July 1, 2013 are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. Beginning July 1, 2013, rules adopted by the commissioner pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 2. 20-A MRSA §2902, sub-§3**, as repealed and replaced by PL 1985, c. 797, §22, is amended to read:

**3. Courses required by law.** Provide instruction in elementary schools as specified in sections 4701, 4704, 4706 and 4711 and in secondary schools as specified in sections 4701, 4704, 4706, 4722, 4723 and 4724.

**Sec. 3. 20-A MRSA §4502, sub-§1**, as amended by PL 2001, c. 454, §12, is further amended to read:

**1. General requirements.** Elementary and secondary schools and school administrative units, including an educational program or school located in or operated by a juvenile correctional facility, shall meet all requirements of the system of learning results as established in section 6209 as well as other requirements of this Title and other statutory requirements applicable to the public schools and basic school approval standards. Each school administrative unit shall prepare and implement a comprehensive education plan that is aligned with the system of learning results, focused on the learning of all students and oriented to continuous improvement. The comprehensive education plan must include a plan for transitioning to proficiency-based graduation in accordance with section 4722-A. This plan must also address all other plans required by the department.

**Sec. 4. 20-A MRSA §4502, sub-§6**, as repealed and replaced by PL 2001, c. 454, §15, is amended to read:

**6. Annual report on comprehensive education plan.** The superintendent shall make an annual report of progress on the comprehensive education plan, developed pursuant to subsection 1, to the citizens of the school administrative unit. The school board shall annually review and approve the plan. The superintendent shall certify progress on the plan to the commissioner on an annual basis and shall submit to the commissioner a copy of the minutes of the school board meeting at which the school board reviewed and approved the plan.

**Sec. 5. 20-A MRSA §4502, sub-§8**, as enacted by PL 2001, c. 454, §16, is amended to read:

**8. Waivers.** The commissioner may grant a school administrative unit a waiver of one or more school approval requirements upon receipt of an application from the school administrative unit that includes the basis for the waiver request and a plan to reduce reliance on waivers in subsequent years. ~~Financial hardship is one criterion the commissioner must consider in determining whether to grant a waiver.~~

A. Financial hardship is one criterion the commissioner must consider in determining whether to grant a waiver.

B. A request to waive the requirement for a transition plan to proficiency-based graduation in accordance with section 4722-A by January 1, 2017 must include specific information about the reason for the waiver request and a date by which the proficiency-based graduation requirement will be met. Any waiver granted by the commissioner under this paragraph must require an annual report

to the commissioner on the school administrative unit's progress toward meeting the requirements of section 4722-A. This paragraph is repealed July 1, 2020.

C. The commissioner shall provide a report to the joint standing committee of the Legislature having jurisdiction over education matters by February 1st annually on the number of waivers provided pursuant to paragraph B, including the reasons for the waivers granted. The commissioner shall promptly post the annual report submitted pursuant to this paragraph on the department's publicly accessible website.

This paragraph is repealed July 1, 2020.

**Sec. 6. 20-A MRSA §4722, sub-§§7 and 8** are enacted to read:

**7. Applicability of requirements; transition to proficiency-based diploma.** Except as provided in section 4722-A, this section applies to the granting of diplomas to secondary school students before January 1, 2017.

**8. Repeal.** This section is repealed July 1, 2020.

**Sec. 7. 20-A MRSA §4722-A** is enacted to read:

**§4722-A. Proficiency-based diploma standards**

Beginning January 1, 2017, a diploma indicating graduation from a secondary school must be based on student demonstration of proficiency as described in this section. The commissioner may permit a school administrative unit to award diplomas under this section prior to January 1, 2017 if the commissioner finds that the unit's plan for awarding diplomas meets the criteria for proficiency-based graduation under this section.

**1. Requirements for award of diploma.** In order to receive a diploma indicating graduation from secondary school, a student must:

A. Demonstrate that the student engaged in educational experiences relating to English language arts, mathematics and science and technology in each year of the student's secondary schooling;

B. Demonstrate proficiency in meeting state standards in all content areas of the system of learning results established under section 6209;

C. Demonstrate proficiency in each of the guiding principles set forth in department rules governing implementation of the system of learning results established pursuant to section 6209; and

D. Meet any other requirements specified by the governing body of the school administrative unit attended by the student.

**2. Method of gaining and demonstrating proficiency.** Students must be allowed to gain proficiency through multiple pathways, as described in section 4703, and must be allowed to demonstrate proficiency by presenting multiple types of evidence, including but not limited to teacher-designed or student-designed assessments, portfolios, performance, exhibitions and projects.

**3. Exceptions.** Notwithstanding subsection 1, a student may be awarded a diploma indicating graduation from a secondary school in the following circumstances.

A. A child with a disability, as defined in section 7001, subsection 1-B, who achieves proficiency as required in subsection 1, as specified by the goals and objectives of the child's individualized education plan, may be awarded a high school diploma.

B. A student who has satisfactorily completed the freshman year in an accredited degree-granting institution of higher education may be eligible to receive a high school diploma from the school the student last attended.

C. A student who experiences education disruption, as described in section 5001-A, subsection 4, paragraph F, who successfully demonstrates proficiency as required in subsection 1 as set forth in the student's school work recognition plan as defined in section 5161 must, with the approval of the commissioner, be awarded a Department of Education diploma as defined in section 5161.

D. A school administrative unit may award a high school diploma to a student who has met the standards set forth in a waiver request that was approved by the commissioner pursuant to section 4502, subsection 8.

E. A person may be awarded a high school diploma, including a posthumous award, if the person or a family member of the person applies to a secondary school and:

(1) The person:

(a) Attended a secondary school in the geographic area now served by the secondary school from which a diploma is requested; or

(b) Resides at the time of application for a diploma in the geographic area served by the secondary school from which a diploma is requested;

(2) The person did not graduate or receive a diploma from a secondary school because the person left secondary school to serve in the Armed Forces and served during the following periods:

(a) World War II, from December 7, 1941 to August 16, 1945;

(b) The Korean Conflict; or

(c) The Vietnam War era, from February 28, 1961 to May 7, 1975; and

(3) The person received an honorable discharge or a certificate of honorable service from the Armed Forces.

For the purposes of this paragraph, "Armed Forces" means the United States Army, Navy, Air Force, Marine Corps, Coast Guard and the Merchant Marines.

**4. Grants; contingent extension of full implementation.** During the period of transition to proficiency-based graduation in accordance with this section, the department, if funds are available, shall make annual transition grants to each school administrative unit equal to 1/10 of 1% of the school administrative unit's total cost of education calculated under section 15688, subsection 1 to be used in the manner determined by the school administrative unit to fund the costs of the transition not otherwise subsidized by the State. The date for implementation of the awarding of diplomas based on student demonstration of proficiency as described in this section is extended one year for each year for which transition grants are not made available to a school administrative unit or for which levels of general purpose aid for local schools fall below school year 2012-2013 levels.

**Sec. 8. 20-A MRSA §13016, sub-§2,** as amended by PL 1991, c. 622, Pt. X, §8, is further amended to read:

**2. Professional teacher certificates.** A professional teacher certificate may be renewed for 5-year periods in accordance with state board rules, which must require, at a minimum, that the teacher complete at least 6 hours of professional or academic study, or in-service training designed to improve the performance of the teacher in the field for which the teacher holds an endorsement, or in a related subject area, or to improve the teacher's knowledge of, and skill in, standards-based education. Teachers who desire to qualify for a master teacher certificate must coordinate their continuing professional education with the requirements of an applicable teacher action plan.

**Sec. 9. Development of standards-based system tools.** The Department of Education shall coordinate the development of standards, assessments and assessment criteria needed to enable school administrative units to implement a standards-based system of education.

1. The Department of Education shall convene a working group to develop standards, assessments and assessment criteria for determining student proficiency in the guiding principles as outlined in department rule

that are required for secondary school graduation beginning January 1, 2017. The working group must include representatives from school administrative units currently developing those standards, assessments and assessment criteria. The working group shall develop draft standards, assessments and assessment criteria for review not later than July 1, 2013.

2. The Department of Education shall maintain a publicly accessible website to serve as a resource for schools implementing standards-based education systems. The website must:

A. Include information about the experience of school administrative units that are engaged in transforming their schools to standards-based systems, including schools involved in the Maine Cohort for Customized Learning and the League of Innovative Schools of the New England Secondary School Consortium;

B. Include a repository of model materials, including but not limited to report cards and transcripts, assessment methodologies and assessment criteria for all content areas of the system of learning results;

C. Be designed to facilitate communication among educators and administrators on the transformation of schools to standards-based education systems; and

D. Provide information for school administrative units seeking to create regional capacity to implement standards-based education systems, including information about applying for a grant from the Fund for the Efficient Delivery of Educational Services established pursuant to the Maine Revised Statutes, Title 20-A, section 2651 and information about school administrative units that are currently engaging in regional cooperation in delivering education.

**Sec. 10. Development of technical assistance plan.** The Department of Education shall develop a technical assistance plan that includes a timeline with implementation dates for the resources and initiatives the department will provide to enable school administrative units to transition to a standards-based education system. The technical assistance plan must include but is not limited to the standards-based system tools described in section 9, other resources related to model policies and best practices, professional development and training and other initiatives that the department determines will be necessary for school administrative units to transform their schools to a standards-based education system. The technical assistance plan must be presented to the joint standing committee of the Legislature having jurisdiction over education matters for review by March 1, 2013. The joint standing committee may introduce a bill to the First Regular Session of the 126th Legislature related

to the department's activities described in this section and section 9.

**Sec. 11. Amendment of age-based and grade-based statutory provisions.** The Department of Education shall submit a bill to the First Regular Session of the 126th Legislature to amend provisions of the Maine Revised Statutes, Title 20-A that unreasonably restrict the ability of school administrative units to advance or graduate students based on demonstrated proficiency in education standards. The bill may include an amendment to the rule-making provisions under Title 20-A, section 253, subsection 9.

See title page for effective date.

**CHAPTER 670**

**H.P. 1219 - L.D. 1610**

**An Act To Amend the Law Regarding the Sale of Wood Pellets and Wood**

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

**Whereas,** this legislation increases the amount of wood pellets presumed to meet the requirement of residential use and thus to qualify for a sales tax exemption; and

**Whereas,** this legislation clarifies the amount of wood presumed to meet the requirement of residential use and thus to qualify for a sales tax exemption; and

**Whereas,** this legislation needs to be in effect for this spring season to allow citizens of the State to benefit from the exemptions; 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. 36 MRSA §1760, sub-§9,** as amended by PL 2009, c. 625, §7, is further amended to read:

**9. Coal, oil and wood.** Coal, oil, wood and all other fuels, except gas and electricity, when bought for cooking and heating in buildings designed and used for both human habitation and sleeping. Kerosene or home heating oil that is prepackaged or dispensed from a tank for retail sale in containers with a capacity of 5 gallons or less is presumed to meet the requirements of this subsection. A Until September 30, 2013,

a purchase of ~~200~~ 1,000 pounds or less of wood pellets or of any 100% compressed wood product intended for use in a wood stove or fireplace is presumed to meet the requirements of this subsection. Beginning October 1, 2013, a purchase of any amount of wood pellets is presumed to meet the requirements of this subsection. A purchase of less than one cord of wood is presumed to meet the requirements of this subsection. For purposes of this subsection, "cord" has the same meaning as in Title 10, section 2302, subsection 1.

**Sec. 2. Suppliers of wood pellets.** The Maine State Housing Authority shall amend its rules governing the awarding of contracts to suppliers of wood pellets for purposes of carrying out its duties to receive, distribute and administer federal funds on behalf of the State for fuel assistance pursuant to the federal Low-income Home Energy Assistance Program administered through the United States Department of Health and Human Services to give preference, all other factors being substantially equal, to a supplier of wood pellets that is incorporated under the laws of, and has its principal place of business within, a state in the United States of America.

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

Effective May 21, 2012.

**CHAPTER 671**

**S.P. 566 - L.D. 1667**

**An Act To Clarify Authorization for a Court Facilities Bond**

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

**Sec. 1. PL 2009, c. 213, Pt. WWWW, §2** is amended to read:

**Sec. WWWW-2. Issuance of securities; Maine Governmental Facilities Authority.** Pursuant to the Maine Revised Statutes, Title 4, section 1606, subsections 1 and 2, the Maine Governmental Facilities Authority is authorized to issue securities in its own name in an amount up to \$67,500,000 for the purpose of paying the costs associated with the construction of a new courthouse in Augusta, the renovation of a courthouse in Dover-Foxcroft ~~and,~~ planning for and construction of court facilities upgrades in Machias and, if there are remaining funds, planning for other court facilities.

See title page for effective date.

**CHAPTER 672**  
**S.P. 591 - L.D. 1731**

**An Act To Combat Human  
Sex Trafficking**

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

**Sec. 1. 17-A MRSA §852, sub-§2**, as enacted by PL 1975, c. 499, §1, is amended to read:

2. As used in this section, "compelling" includes but is not limited to:

A. The use of a drug or intoxicating substance to render a person incapable of controlling ~~his~~ that person's conduct or appreciating its nature; ~~and~~

B. Withholding or threatening to withhold a narcotic drug or alcoholic liquor from a drug or alcohol-dependent person. A "drug or alcohol-dependent person" is one who is using narcotic drugs or alcoholic liquor and who is in a state of psychic or physical dependence or both, arising from the use of the drug or alcohol on a continuing basis;

C. Making material false statements, misstatements or omissions;

D. Withholding, destroying or confiscating an actual or purported passport or other immigration document or other actual or purported government identification document with the intent to impair a person's freedom of movement;

E. Requiring prostitution to be performed to retire, repay or service an actual or purported debt; and

F. Using force or engaging in any scheme, plan or pattern to instill in a person a fear that, if the person does not engage or continue to engage in prostitution, the actor or another person will:

(1) Cause physical injury or death to a person;

(2) Cause damage to property, other than property of the actor;

(3) Engage in other conduct constituting a Class A, B or C crime, kidnapping or criminal restraint;

(4) Accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person;

(5) Expose a secret or publicize an asserted fact, regardless of veracity, tending to subject some person, except the actor, to hatred, contempt or ridicule;

(6) Testify or provide information or withhold testimony or information regarding another person's legal claim or defense;

(7) Use a position as a public servant to perform some act related to that person's official duties or fail or refuse to perform an official duty in a manner that adversely affects some other person; or

(8) Perform any other act that would not in itself materially benefit the actor but that is calculated to harm the person being compelled with respect to that person's health, safety or immigration status.

See title page for effective date.

**CHAPTER 673**  
**S.P. 554 - L.D. 1655**

**An Act To Create a Sales Tax  
Exemption for the Sale and  
Delivery of Off-peak Electricity  
for Electric Thermal Storage  
Devices**

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

**Whereas**, the sale and use of electric thermal storage devices will enable homeowners to obtain electricity in an efficient and safe manner and improve the efficiency of the electric power system through the use of off-peak electricity; and

**Whereas**, in order to maximize the benefit provided by this Act it is necessary to provide incentives for the use of electric thermal storage devices during the current heating season; 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. 36 MRSA §1760, sub-§9-B**, as amended by PL 2007, c. 438, §35, is repealed and the following enacted in its place:

**9-B. Residential electricity.** Sale and delivery of residential electricity as follows:

A. The first 750 kilowatt hours of residential electricity per month; and

B. Off-peak residential electricity used for space heating or water heating by means of an electric thermal storage device. For the purpose of this paragraph, "off-peak residential electricity" means the off-peak delivery of residential electricity pursuant to tariffs on file with the Public Utilities Commission and the electricity supplied.

For the purpose of this subsection, "residential electricity" means electricity furnished to buildings designed and used for both human habitation and sleeping, with the exception of hotels. When residential electricity is furnished through one meter to more than one residential unit and when the transmission and distribution utility applies its tariff on a per unit basis, the furnishing of electricity is considered a separate sale for each unit to which the tariff applies. For the purpose of this subsection, "delivery" means transmission and distribution.

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

Effective May 21, 2012.

**CHAPTER 674  
S.P. 538 - L.D. 1628**

**An Act To Limit Payment for  
Care and Treatment of  
Residents of State Institutions**

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

**Sec. 1. 34-B MRSA §1409, sub-§1, ¶B-1,** as enacted by PL 2005, c. 256, §1, is amended to read:

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

- (1) A person who is an inpatient; or
- (2) A person who is an outpatient receiving services from any state institution, including outpatient clinic services; ~~or~~
- (3) ~~A resident of the Homestead facility.~~

**Sec. 2. 34-B MRSA §1409, sub-§1, ¶D,** as enacted by PL 2005, c. 683, Pt. B, §30, is repealed.

**Sec. 3. 34-B MRSA §1409, sub-§11, ¶A,** as enacted by PL 1983, c. 459, §7, is amended to read:

A. This subsection may not be construed as a limitation on compensation for providers of resident care and treatment; ~~and~~

**Sec. 4. 34-B MRSA §1409, sub-§11, ¶B,** as enacted by PL 1983, c. 459, §7, is amended to read:

B. This subsection may not be construed as a limitation on contractual arrangements between the providers and the State; ~~and~~

**Sec. 5. 34-B MRSA §1409, sub-§11, ¶C** is enacted to read:

C. For a resident receiving services, including medical care, goods, prescription drugs and other medications, outside a state institution, the commissioner may pay the provider of those services an amount no greater than the reimbursement rate applicable to that provider and that service under the Medicare fee schedule.

**Sec. 6. 34-B MRSA §1409, sub-§13,** as amended by PL 2005, c. 256, §4, is further amended to read:

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

**Sec. 7. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,  
DEPARTMENT OF (FORMERLY BDS)**

**Disproportionate Share - Dorothea Dix Psychiatric Center 0734**

Initiative: Reduces funding from savings from limiting reimbursement for medical services provided to a resident of a state institution outside of a state institution to the Medicare rate.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$5,630)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$5,630)</b>

**Disproportionate Share - Riverview Psychiatric Center 0733**

Initiative: Reduces funding from savings from limiting reimbursement for medical services provided to a resident of a state institution outside of a state institution to the Medicare rate.

GENERAL FUND	2011-12	2012-13
All Other	\$0	(\$45,191)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$45,191)</b>

**Dorothea Dix Psychiatric Center 0120**

Initiative: Reduces funding from savings from limiting reimbursement for medical services provided to a resident of a state institution outside of a state institution to the Medicare rate.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$2,970)
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	(\$2,970)

**Dorothea Dix Psychiatric Center 0120**

Initiative: Reduces funding from savings from limiting reimbursement for medical services provided to a resident of a state institution outside of a state institution to the Medicare rate.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$9,810)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$9,810)

**Dorothea Dix Psychiatric Center 0120**

Initiative: Reduces funding from savings from limiting reimbursement for medical services provided to a resident of a state institution outside of a state institution to the Medicare rate.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$1,590)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$1,590)

**Riverview Psychiatric Center 0105**

Initiative: Reduces funding from savings from limiting reimbursement for medical services provided to a resident of a state institution outside of a state institution to the Medicare rate.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$9,288)
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	(\$9,288)

**Riverview Psychiatric Center 0105**

Initiative: Reduces funding from savings from limiting reimbursement for medical services provided to a resident of a state institution outside of a state institution to the Medicare rate.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$78,181)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$78,181)

**Riverview Psychiatric Center 0105**

Initiative: Reduces funding from savings from limiting reimbursement for medical services provided to a resident of a state institution outside of a state institution to the Medicare rate.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$7,340)
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$7,340)

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	(\$63,079)
OTHER SPECIAL REVENUE FUNDS	\$0	(\$96,921)
	<hr/>	<hr/>
DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$160,000)

See title page for effective date.

**CHAPTER 675**

**S.P. 552 - L.D. 1653**

**An Act To Make Fisheries and Wildlife and Marine Resources Projects Eligible for Tax Increment Financing**

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

**Sec. 1. 30-A MRSA §5222, sub-§10-A is enacted to read:**

**10-A. Fisheries and wildlife or marine resources project.** "Fisheries and wildlife or marine resources project" means a project approved by the Department of Inland Fisheries and Wildlife or the Department of Marine Resources undertaken for the

purpose of improving public access to freshwater or saltwater fisheries and wildlife resources of the State for fishing, hunting, research or observation or for conservation or improvement of the freshwater or saltwater fisheries and wildlife resources of the State.

**Sec. 2. 30-A MRSA §5223, sub-§3, ¶A,** as amended by PL 2007, c. 413, §3, is further amended to read:

A. At least 25%, by area, of the real property within a development district must meet at least one of the following criteria:

- (1) Must be a blighted area;
- (2) Must be in need of rehabilitation, redevelopment or conservation work including a fisheries and wildlife or marine resources project; or
- (3) Must be suitable for commercial or arts district uses.

**Sec. 3. 30-A MRSA §5225, sub-§1, ¶C,** as amended by PL 2011, c. 101, §14 and c. 102, §1, is repealed and the following enacted in its place:

C. Costs related to economic development, environmental improvements, fisheries and wildlife or marine resources projects, recreational trails or employment training within the municipality or plantation, including, but not limited to:

- (1) Costs of funding economic development programs or events developed by the municipality or plantation or funding the marketing of the municipality or plantation as a business or arts location;
- (2) Costs of funding environmental improvement projects developed by the municipality or plantation for commercial or arts district use or related to such activities;
- (3) Funding to establish permanent economic development revolving loan funds or investment funds;
- (4) Costs of services to provide skills development and training for residents of the municipality or plantation. These costs may not exceed 20% of the total project costs and must be designated as training funds in the development program;
- (5) Quality child care costs, including finance costs and construction, staffing, training, certification and accreditation costs related to child care;
- (6) Costs associated with new or existing recreational trails determined by the department to have significant potential to promote economic development, including, but not

limited to, costs for multiple projects and project phases that may include planning, design, construction, maintenance, grooming and improvements with respect to new or existing recreational trails, which may include bridges that are part of the trail corridor, used all or in part for all-terrain vehicles, snowmobiles, hiking, bicycling, cross-country skiing or other related multiple uses;

(7) Costs associated with a new or expanded transit service, limited to:

(a) Transit service capital costs, including but not limited to: transit vehicles such as buses, ferries, vans, rail conveyances and related equipment; bus shelters and other transit-related structures; and benches, signs and other transit-related infrastructure; and

(b) In the case of transit-oriented development districts, ongoing costs of adding to an existing transit system or creating a new transit service and limited strictly to transit operator salaries, transit vehicle fuel and transit vehicle parts replacements; and

(8) Costs associated with the development of fisheries and wildlife or marine resources projects; and

**Sec. 4. Fisheries and wildlife or marine resources projects; rules.** The Department of Inland Fisheries and Wildlife, in consultation with the Department of Economic and Community Development, shall adopt rules establishing standards and a process for approval of fisheries and wildlife projects eligible for tax increment financing under the Maine Revised Statutes, Title 30-A, chapter 206. The Department of Marine Resources, in consultation with the Department of Economic and Community Development, shall adopt rules establishing standards and a process for approval of marine resources projects eligible for tax increment financing under the Maine Revised Statutes, Title 30-A, chapter 206. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 5. Appropriations and allocations.** The following appropriations and allocations are made.

#### **INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

##### **Fisheries and Hatcheries Operations 0535**

Initiative: Provides one-time funding for rule-making costs associated with establishing standards and a process for approval of fisheries and wildlife projects eligible for tax increment financing.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$7,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$7,000</b>

See title page for effective date.

**CHAPTER 676**  
**S.P. 604 - L.D. 1756**

**An Act To Establish a Separate State Council for Juveniles under the Interstate Compact for Juveniles**

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

**Sec. 1. 34-A MRSA §9921**, as enacted by PL 2003, c. 706, Pt. B, §9, is amended to read:

**§9921. State Council for Adult Offender Supervision established**

The State Council for ~~Juvenile and Adult Offender Supervision~~, referred to in this section as "the council," is established to provide oversight and guidance to the State's participation in the Interstate Compact for Adult Offender Supervision ~~and the Interstate Compact for Juveniles~~.

**1. Membership.** The council consists of ~~at least~~ 7 members as follows:

A. ~~One member of the~~ The Senate, appointed by the President of the Senate chair of the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters or the chair's designee;

B. ~~One member of the~~ The House of Representatives, appointed by the Speaker of the House chair of the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters or the chair's designee;

C. Three members who are appointed by the ~~Governor~~ commissioner for a term of 4 years, or until a successor is appointed, and who are eligible for reappointment at the discretion of the ~~Governor~~ commissioner:

- (1) One prosecutor;
- (2) One representative of a statewide association representing victims of crime; and
- (3) One representative representing law enforcement;

D. The compact ~~administrators~~ administrator for the Interstate Compact for Adult Offender Super-

~~vision and the Interstate Compact for Juveniles, who may be designees a designee appointed by the Commissioner of Corrections commissioner to administer the Interstate Compact for Adult Offender Supervision and the Interstate Compact for Juveniles; and~~

E. The Associate Commissioner for Adult Services or the associate commissioner's designee; ~~and.~~

F. ~~The Associate Commissioner for Juvenile Services or the associate commissioner's designee.~~

The council shall invite the Chief Justice of the Supreme Judicial Court to designate a trial judge to act as advisor to the council.

**Sec. 2. 34-A MRSA §9922** is enacted to read:

**§9922. State Council for Juvenile Supervision established**

The State Council for Juvenile Supervision, referred to in this section as "the council," is established to provide oversight and guidance to the State's participation in the Interstate Compact for Juveniles.

**1. Membership.** The council consists of 7 members as follows:

A. The Senate chair of the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters or the chair's designee;

B. The House chair of the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters or the chair's designee;

C. Three members who are appointed by the commissioner for a term of 4 years, or until a successor is appointed, who are eligible for reappointment at the discretion of the commissioner and who are members of the Juvenile Justice Advisory Group appointed by the Governor under section 1209:

- (1) One prosecutor;
- (2) One representative of a statewide association representing victims of crime; and
- (3) One representative representing law enforcement;

D. The compact administrator for the Interstate Compact for Juveniles, who may be a designee appointed by the commissioner to administer the Interstate Compact for Juveniles; and

E. The Associate Commissioner for Juvenile Services or the associate commissioner's designee.

The council shall invite the Chief Justice of the Supreme Judicial Court to designate a trial judge to act as advisor to the council.

**Sec. 3. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 34-A, chapter 9, subchapter 8, in the subchapter headnote, the words "state council" are amended to read "state councils" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

**CHAPTER 677**

**S.P. 603 - L.D. 1755**

**An Act Regarding the Interstate Compact for Adult Offender Supervision**

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

**Sec. 1. 34-A MRSA §9887**, as enacted by PL 2005, c. 329, §13, is amended to read:

**§9887. Supervision fee**

The department may impose on a person accepted for supervision under this compact a supervision fee of between \$10 and \$50 per month, as determined by the department, for the term of supervision by the department. In determining the amount of the fee, the department shall take into account the financial resources of the person and the nature of the burden the payment imposes. A request for transfer of supervision may not be denied solely because the person is not able to pay the fee. When a person fails to pay the supervision fee, the department may request the person's return to the sending state unless the failure to pay was not attributable to the person's willful refusal to pay or to a failure on the person's part to make a good faith effort to obtain the funds required for the payment. Fees received by the department pursuant to this section must be deposited into the department's adult community corrections account, which may not lapse. Fees deposited pursuant to this section must be used to defray costs associated with the supervision of persons accepted for transfer, including, but not limited to, the purchase of materials and equipment for and operation of electronic monitoring and substance testing programs, the purchase of materials, equipment and training for probation officers and administrative costs.

**Sec. 2. 34-A MRSA §9887-A** is enacted to read:

**§9887-A. Application fee**

The department may impose on a person applying for transfer of supervision to another state under this

compact an application fee of \$100. An application for transfer of supervision may not be denied solely because the person is not able to pay the fee. When a person fails to pay the application fee, the department may refuse to process the application unless the failure to pay was not attributable to the person's willful refusal to pay or to a failure on the person's part to make a good faith effort to obtain the funds required for the payment. Fees received by the department pursuant to this section must be deposited into the department's adult community corrections account, which may not lapse. Fees deposited pursuant to this section must be used to defray costs associated with processing the applications for transfer, including, but not limited to, the purchase of materials, equipment and training for probation officers and administrative costs.

**Sec. 3. 34-A MRSA §9887-B** is enacted to read:

**§9887-B. Biological sample for DNA analysis**

A person accepted for supervision under this compact shall submit to having a DNA sample taken only if that person is convicted of a crime punishable by imprisonment for one year or more. The DNA sample may be taken at any time following commencement of the supervision period as directed by the person's probation officer. All other provisions of Title 25, chapter 194 govern the collection and use of the DNA sample as applicable.

**Sec. 4. Appropriations and allocations.** The following appropriations and allocations are made.

**CORRECTIONS, DEPARTMENT OF Adult Community Corrections 0124**

Initiative: Allocates supervision and application fee revenue dedicated to adult community corrections.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$242,920
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$242,920
<b>CORRECTIONS, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$242,920</b>
	<hr/>	<hr/>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$242,920</b>

**PUBLIC SAFETY, DEPARTMENT OF  
State Police 0291**

Initiative: Provides funding for supplies related to additional DNA samples.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$4,495
GENERAL FUND TOTAL	\$0	\$4,495
HIGHWAY FUND	2011-12	2012-13
All Other	\$0	\$4,318
HIGHWAY FUND TOTAL	\$0	\$4,318
PUBLIC SAFETY, DEPARTMENT OF		
DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$4,495
HIGHWAY FUND	\$0	\$4,318
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$8,813
SECTION TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$4,495
HIGHWAY FUND	\$0	\$4,318
OTHER SPECIAL REVENUE FUNDS	\$0	\$242,920
SECTION TOTAL - ALL FUNDS	\$0	\$251,733

See title page for effective date.

**CHAPTER 678**

**H.P. 1284 - L.D. 1742**

**An Act To Amend Education  
Laws**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of

all of the members elected to each House have determined it necessary to enact this measure.

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

**PART A**

**Sec. A-1. 20-A MRSA §6051, sub-§1, ¶D,** as enacted by PL 1985, c. 797, §36, is amended to read:

D. An audit of all federal programs in accordance with applicable federal law including a written determination that the audit has been conducted in accordance with applicable federal laws relating to financial and compliance audits as indicated in federal Office of Management and Budget circulars;

**Sec. A-2. 20-A MRSA §6051, sub-§1, ¶H,** as enacted by PL 2009, c. 571, Pt. E, §12, is amended to read:

H. A determination of whether the school administrative unit has complied with budget content requirements pursuant to section 15693, subsection 1 and cost center summary budget format requirements pursuant to sections 1305-C, 1485, 1701-C and 2307; ~~and~~

**Sec. A-3. 20-A MRSA §6051, sub-§1, ¶I,** as enacted by PL 2009, c. 571, Pt. E, §13, is amended to read:

I. A determination of whether the school administrative unit has exceeded its authority to expend funds, as provided by the total budget summary article; and

**Sec. A-4. 20-A MRSA §6051, sub-§1, ¶J** is enacted to read:

J. A determination of whether the school administrative unit has complied with the applicable provisions of the unexpended balances requirements established under section 15004.

**Sec. A-5. 20-A MRSA §6051, sub-§3,** as repealed and replaced by PL 1985, c. 797, §36, is amended to read:

**3. Auditors.** Audits ~~shall~~ must be conducted by ~~either the Department of Audit or~~ qualified certified public accountants or public accountants registered by the Board of Accountancy. The auditor shall review the audit with the school board.

**Sec. A-6. 20-A MRSA §6051, sub-§7, ¶¶B and C,** as enacted by PL 2009, c. 571, Pt. E, §14, are amended to read:

B. A school administrative unit audit is not necessary to meet federal audit requirements; and

C. The municipal school administrative unit files the municipal audit or audits that include the fiscal year specified in subsection 2, ~~and~~.

**Sec. A-7. 20-A MRSA §6051, sub-§7, ¶D,** as enacted by PL 2009, c. 571, Pt. E, §14, is repealed.

**Sec. A-8. 20-A MRSA §15909, sub-§§5 and 6** are enacted to read:

**5. Records.** Financial records and accounts for a school construction project must be kept for 7 years after the final audit.

**6. Audit.** Financial records and accounts for state-funded school construction projects must be audited by department staff or certified public accountants contracted by the department.

### PART B

**Sec. B-1. 20-A MRSA §1486, sub-§4,** as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

**4. Failure to approve budget.** If the voters do not validate the budget approved in the regional school unit budget meeting at the budget validation referendum vote, the regional school unit board shall hold another regional school unit budget meeting in accordance with this section and section 1485 at least 10 days but no longer than 45 days after the referendum to vote on a budget approved by the regional school unit board. The budget approved at the regional school unit budget meeting must be submitted to the voters for validation at referendum in accordance with this section. The process must be repeated until a budget is approved at a regional school unit budget meeting and validated at referendum. If a budget is not approved and validated before July 1st of each year, section 1487 applies.

### PART C

**Sec. C-1. 20-A MRSA §1, sub-§41,** as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

**Sec. C-2. 20-A MRSA c. 109,** as amended, is repealed.

**Sec. C-3. 20-A MRSA §15005, sub-§3,** as amended by PL 2009, c. 571, Pt. E, §16, is further amended to read:

**3. Return required.** An apportionment provided in this chapter, chapters ~~109~~, 505 and 606-B, and section 13601, and Title 20, section 3457, may not be paid to a school administrative unit by the Treasurer of State until returns required by law have been filed with the commissioner.

**Sec. C-4. 20-A MRSA §15909, sub-§1,** as amended by PL 1985, c. 248, §8, is repealed.

**Sec. C-5. 20-A MRSA §15909, sub-§2,** as amended by PL 1987, c. 402, Pt. A, §133 and c. 803, §§3 and 5, is further amended to read:

**2. Bonds.** A school administrative unit shall sell bonds in its name for the total cost of ~~the a school construction~~ project minus the amounts listed in paragraph A. Bond sales ~~shall~~ must be consistent with rules adopted or amended by the state board.

A. The amount to be bonded ~~shall~~ must be determined as follows. The total cost of the project ~~shall~~ must be reduced by:

- (2) Proceeds from insured losses;
- (3) Money from federal sources; and
- (4) Other noneducational funds, except gifts and money from federal revenue sharing sources.

B. A school administrative unit may borrow money for projects in anticipation of bond sales. Borrowing ~~shall~~ must be consistent with rules adopted or amended by the state board.

**Sec. C-6. 20-A MRSA §15909, sub-§3,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**3. Deductions; cost of project.** Proceeds from insured losses, money from federal sources and other noneducational funds ~~shall~~ must be deducted from the total cost of ~~the a school construction~~ project to determine the amount on which the state's share ~~shall~~ must be calculated. Proceeds from gifts or moneys from federal revenue sharing sources ~~shall~~ must be treated as local appropriations.

**Sec. C-7. 20-A MRSA §15909, sub-§4,** as enacted by PL 1985, c. 248, §10, is repealed.

**Sec. C-8. 26 MRSA §1043, sub-§28,** as amended by PL 1987, c. 737, Pt. C, §§71 and 106 and PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**28. Governmental entity.** "Governmental entity" means the State of Maine, its instrumentalities, political subdivisions and school administrative units as represented by their elected or appointed governing bodies and ~~shall include~~ includes, without limitation, city and town councils, boards of selectmen, boards of county commissioners, municipally owned and operated hospitals and administrative entities formed under Title 30-A, chapter 115. In the case of school administrative units, governing bodies ~~shall~~ include, without limitation, municipal school committees, school administrative district directors, and community school district school committees ~~and school unions formed under Title 20 A, chapter 109~~. In the case of special purpose districts, governing bodies ~~shall~~ include, without limitation, boards of directors or trustees.

**Sec. C-9. 39-A MRSA §102, sub-§12, ¶G,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

G. Municipal school committees; and

**Sec. C-10. 39-A MRSA §102, sub-§12, ¶H,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is repealed.

#### PART D

**Sec. D-1. 20-A MRSA §15905, sub-§3,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**3. Certificate of approval.** A certificate of approval ~~shall~~ must be issued for each project approved by the state board. The certificate ~~shall~~ must bear the amount ~~of state aid approved for subsidy~~ and other stipulations or conditions. The certificate ~~shall~~ must be signed by the commissioner and ~~shall be~~ is conclusive evidence of the facts stated on it.

#### PART E

**Sec. E-1. 20-A MRSA §5205, sub-§§9 and 10** are enacted to read:

**9. Foreign exchange student.** A student who is not a resident of the State is considered a resident of the school administrative unit where the student resides if the superintendent has approved the acceptance of the student as a foreign exchange student and the student is attending the school at public expense. For the purposes of this subsection, "foreign exchange student" means a student who has been approved for a J-1 visa to participate in the Exchange Visitor Program for secondary school students pursuant to the provisions of the federal Mutual Educational and Cultural Exchange Program under 22 United States Code, Chapter 33 and 22 Code of Federal Regulations, Section 62.25.

**10. Student who is not a resident.** Except for a student accepted as a foreign exchange student pursuant to subsection 9, a student who is not a resident of the State and who while not attending school resides and whose parents reside outside the State is not counted for purposes of essential programs and services under chapter 606-B.

#### PART F

**Sec. F-1. 20-A MRSA §3252, sub-§4-A,** as amended by PL 2005, c. 635, §1, is repealed.

#### PART G

**Sec. G-1. 20-A MRSA §8802, sub-§2, ¶A,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. In the first summer of its operation, ~~the average an estimated~~ cost for each student ~~in all summer schools in the State for the preceding summer~~

based on estimated costs to operate the summer school program divided by the estimated number of students expected to attend the summer school program;

**Sec. G-2. 20-A MRSA §8802, sub-§4,** as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

#### PART H

**Sec. H-1. 20-A MRSA §8101-A** is enacted to read:

##### **§8101-A. Gifted and talented education programs**

**1. Implementation.** Each school administrative unit shall implement a gifted and talented education program. The commissioner may provide technical assistance to a school administrative unit in planning and implementing its gifted and talented education program.

**2. Costs; approval.** Costs of gifted and talented education programs approved by the department are subsidizable costs under the Essential Programs and Services Funding Act.

**3. Waivers.** Beginning with the 2012-2013 school year, a school administrative unit that did not operate a gifted and talented program in the 2011-2012 school year may apply to the commissioner for a one-year waiver of this requirement if full implementation of this requirement presents an undue burden. The commissioner may grant a school administrative unit a waiver upon receipt of an application from the school administrative unit that includes the basis for the waiver request. Financial hardship is one criterion the commissioner must consider in determining whether to grant a waiver. The rules amended or adopted by the department under subsection 4 must establish requirements applicable to the commissioner's authority to grant a one-year waiver to a school administrative unit and must provide requirements for an extension of a one-year waiver granted to a school administrative unit, including provisions that require that any additional request for extensions must be submitted and reviewed on an annual basis.

**4. Rules.** The department shall amend or adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A establishing procedures and criteria for approval of gifted and talented education programs under this chapter.

**Sec. H-2. 20-A MRSA §8102,** as amended by PL 2009, c. 147, §8, is repealed.

**Sec. H-3. 20-A MRSA §8103,** as amended by PL 2003, c. 477, §9, is repealed.

**Sec. H-4. Transition.** A school administrative unit that does not operate an approved gifted and talented education program in the 2011-2012 school year shall implement such a program not later than the 2012-2013 school year. School administrative units

that operate an approved gifted and talented education program in the 2011-2012 school year are subject to the requirements of the Maine Revised Statutes, Title 20-A, section 8101-A beginning on the effective date of this Act.

### PART I

**Sec. I-1. 20-A MRSA §7001, sub-§2-C,** as enacted by PL 2011, c. 348, §3, is amended to read:

**2-C. Individualized education program team.** "Individualized education program team" means the group of individuals composed in accordance with Part C B of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414(d)(1)(B) to determine the individualized education program for a child with a disability.

### PART J

**Sec. J-1. 20-A MRSA §1466, sub-§9,** as enacted by PL 2009, c. 580, §9, is repealed and the following enacted in its place:

**9. Required vote.** Before the municipality may withdraw from the regional school unit, the withdrawal agreement must be approved by a majority vote of those casting valid votes in the municipality, and the total number of votes cast for and against withdrawal at the municipal vote must equal or exceed 50% of the total number of votes cast in the municipality for Governor at the last gubernatorial election.

This subsection is repealed January 1, 2015.

**Sec. J-2. 20-A MRSA §1466, sub-§9-A** is enacted to read:

**9-A. Required vote; exception for a municipality of a school administrative district that was reformulated as a regional school unit.** A 2/3 vote of those casting valid votes in the municipality is required before a municipality that is a member municipality of a school administrative district that was reformulated as a regional school unit pursuant to Public Law 2007, chapter 240, Part XXXX, section 36, subsection 12 may withdraw from the regional school unit.

This subsection is repealed January 1, 2015.

**Sec. J-3. 20-A MRSA §1466, sub-§9-B** is enacted to read:

**9-B. Required vote.** Beginning January 1, 2015 a 2/3 vote of those casting valid votes in the municipality is required before the municipality may withdraw from the regional school unit.

**Sec. J-4. 20-A MRSA §1466, sub-§13,** as enacted by PL 2009, c. 580, §9, is amended to read:

**13. Determination of results; execution of agreement.** If the commissioner finds that a 2/3 majority of the voters voting on the article have has voted

in the affirmative and the total number of votes cast for and against the article equal or exceed 50% of the total number of votes cast in the municipality for Governor at the last gubernatorial election, the commissioner shall notify the municipal officers and the regional school unit board to take steps for the withdrawal in accordance with the terms of the agreement for withdrawal.

This subsection is repealed January 1, 2015.

**Sec. J-5. 20-A MRSA §1466, sub-§13-A** is enacted to read:

**13-A. Determination of results; execution of agreement; effective date.** Beginning January 1, 2015, if the commissioner finds that a 2/3 majority of the voters voting on the article has voted in the affirmative, the commissioner shall notify the municipal officers and the regional school unit board to take steps for the withdrawal in accordance with the terms of the agreement for withdrawal.

### PART K

**Sec. K-1. 20-A MRSA §1511,** as amended by PL 2011, c. 171, §4, is further amended to read:

#### **§1511. Supermajority vote to close school in the regional school unit**

A school operated within the regional school unit may not be closed for lack of need unless closure of the school is approved at a regular or special meeting of the regional school unit board by an affirmative vote of 2/3 of the elected membership or voting power of those serving on the regional school unit board at the time of the vote. A regional school unit must proceed in accordance with section 1512 for elementary schools or for secondary schools if the regional school unit has more than one secondary school. For regional school units with only one member municipality, section 1512 does not apply and the regional school unit must proceed in accordance with section 4102, subsection 4, paragraph B-1.

See title page for effective date.

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## CHAPTER 679

### S.P. 616 - L.D. 1779

#### **An Act To Update the Career and Technical Education Laws**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 20-A MRSA §254, sub-§3**, as enacted by PL 1983, c. 693, §§5 and 8 and amended by PL 2005, c. 397, Pt. D, §3, is further amended to read:

**3. Contracts for career and technical educational programs.** The commissioner may:

A. Contract with a private school for the conduct of ~~vocational career and technical education~~ courses in accordance with section 3002; and

B. Reimburse the private schools for part of the cost of conducting approved ~~vocational career and technical education~~ courses from funds available from the Federal Government for the purpose of career and technical education.

**Sec. 2. 20-A MRSA §2413, sub-§2, ¶A**, as amended by PL 2011, c. 570, §19, is further amended to read:

A. For each public charter school student, the school administrative unit in which the student resides must forward the per-pupil allocation to the public charter school attended by the student as follows.

(1) The per-pupil allocation amount is the EPS per-pupil rate for the school administrative unit in which the student resides, as calculated pursuant to section 15676, based on the student's grade level and adjusted as appropriate for economic disadvantage and limited English proficiency pursuant to section 15675, subsections 1 and 2. Debt service and capital outlays may not be included in the calculation of these per-pupil allocations. The department shall adopt rules governing how to calculate these per-pupil allocations, including those for ~~vocational, technical and career and technical~~ education programs, targeted funds for assessment technology and kindergarten to grade 2 programs.

(2) For students attending public charter schools, the school administrative unit of residence shall forward the per-pupil allocations described in subparagraph (1) directly to the public charter school attended. These per-pupil allocations must be forwarded to each public charter school on a quarterly basis, as follows. For each fiscal year, allocations must be made in quarterly payments on September 1st, December 1st, March 1st and June 1st. The September payment must be based on the number of students enrolled or anticipated to be enrolled in the public charter school at the opening of school for that school year, which may not exceed the maximum enrollment approved in the charter

contract for that year unless a waiver is obtained from the authorizer. In February of the school year, if the number of students is higher or lower than the number of students at the beginning of the school year, adjustments must be made in the June payment, with 50% of the annual per-pupil allocation added for additional students or subtracted if the total number of students is lower.

(3) For transportation expenses, the average per-pupil expense in each school administrative unit of residence must be calculated and an amount equal to a proportion, up to but not more than 100%, of that per-pupil allocation amount must be forwarded to the public charter school attended on the same basis as the per-pupil allocations for operating funds. The percentage of that per-pupil expense must be determined by the authorizer of the public charter school and must be based on the cost of transportation services provided by the public charter school to the student.

(4) The department shall pay to the public charter school any additional allocation assigned to the public charter school for gifted and talented students pursuant to section 15681-A, subsection 5 in the year in which the allocation is assigned.

A school administrative unit is not required to send funds to a public charter school for a student enrolled in the public charter school's preschool or prekindergarten program if the school administrative unit of the student's residence does not offer that program to its own residents.

**Sec. 3. 20-A MRSA §3002**, as enacted by PL 1981, c. 693, §§5 and 8 and amended by PL 2005, c. 397, Pt. D, §3, is further amended to read:

**§3002. Career and technical education**

The commissioner may contract with a private school, which is serving one or more municipalities in lieu of a public secondary school, for the conduct of ~~vocational career and technical education~~ courses ~~which that~~ meet the same standards for approval as those conducted in public secondary schools.

**Sec. 4. 20-A MRSA §6952, first ¶**, as enacted by PL 2009, c. 296, §1, is amended to read:

To qualify for support, approval and funding under this chapter, the center must provide services to at-risk students who are or have been enrolled in one or more of grades 7 to 12. The admission of an at-risk student to the center is subject to approval by the center based upon criteria of the center approved by the commissioner. The center shall provide residential and nonresidential instruction that is approved pursuant to section 6951 and designed to effect positive,

sustainable change in the lives of at-risk students through comprehensive on-site education services in 4 major areas, including high-quality scholastic, ~~vocational~~ career and technical and behavioral health education; training and support for families of students; training and support for public school teachers in dealing with students who are at risk of failing or dropping out of school; and providing an environment conducive to research aiding the improvement of education for at-risk students.

**Sec. 5. 20-A MRSA §8301-A, sub-§1-A** is enacted to read:

**1-A. Articulation agreement.** "Articulation agreement" means an agreement between a center or region and a postsecondary institution that:

A. Sets forth a nonduplicative learning pathway for a specific program by which students have an opportunity to acquire a technical skill proficiency, a credential, a certificate or a degree; and

B. Includes a credit transfer agreement between the 2 institutions.

**Sec. 6. 20-A MRSA §8301-A, sub-§5**, as enacted by PL 1991, c. 518, §2, is repealed.

**Sec. 7. 20-A MRSA §8305-A, sub-§1, ¶B**, as corrected by RR 2003, c. 2, §43, is amended to read:

B. Receive career and technical education from a center, satellite program or region outside of the geographical area that serves the person's residence, subject to the approval of ~~the commissioner~~ and the governing bodies of the sending unit and receiving center, satellite program or region.

**Sec. 8. 20-A MRSA §8305-A, sub-§3**, as corrected by RR 2003, c. 2, §43, is amended to read:

**3. Adult participation in career and technical education courses.** Persons who are 20 years of age or older or who have graduated from a secondary school and who otherwise comply with the requirements of this section may receive career and technical education in a career and technical education course if, after all other eligible persons have been enrolled in that course, space exists to accommodate participation by persons who are 20 years of age or older or who have graduated from a secondary school. A region, center or satellite program may charge reasonable fees to persons who ~~are 20 years of age or older and who receive career and technical education pursuant to this section~~ subsection.

**Sec. 9. 20-A MRSA §8306-A**, as corrected by RR 2003, c. 2, §46, is repealed.

**Sec. 10. 20-A MRSA §8306-B** is enacted to read:

**§8306-B. Approval of programs and courses; industry standards**

**1. Rules.** The commissioner may adopt rules to establish requirements for career and technical education programs and courses in alignment with the system of learning results established in section 6209, to establish procedures for approving career and technical education programs and courses and to otherwise carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**2. Approval required.** A career and technical education program must be approved by the commissioner, in accordance with this chapter, in order to:

A. Be offered by a career and technical education center, region or affiliated unit;

B. Receive state subsidy; or

C. Receive approval for federal funding, except that the commissioner may approve federal funding for new and emerging industry programs prior to granting approval for the career and technical education program.

**3. Industry standards.** An approved career and technical education program must be designed to enable a student to meet industry standards applicable to the program.

A. The commissioner shall establish an industry stakeholder group to recommend industry standards to be met in each program offered by a career and technical education region, center or affiliated unit.

B. The industry stakeholder group under paragraph A shall recommend national industry standards for each program, unless there are no relevant, applicable national industry standards or the group determines that the national industry standards do not meet the needs of students and employers in this State.

C. If the industry stakeholder group under paragraph A does not recommend a national industry standard for a program, the commissioner shall convene one or more stakeholder groups to adopt or create state industry standards for that program.

D. The commissioner shall accept or reject the industry stakeholder group's recommendations under this subsection. If the commissioner accepts the recommendations, those industry standards become the applicable industry standards for the program. If the commissioner rejects the recommendations, the commissioner shall either designate alternative standards or ask the stakeholder group to make other recommendations.

**4. Learning pathways and articulation agreements with postsecondary institutions.** To the

greatest extent possible, a career and technical education program offered at a center or region must provide students the opportunity to take advantage of any applicable learning pathways, including learning pathways set forth in an articulation agreement with a postsecondary institution.

**5. Application.** A statewide career and technical education program seeking approval from the commissioner after the effective date of this section must meet the requirements of this section. A program approved by the commissioner prior to the effective date of this section must certify to the commissioner not later than July 1, 2013 that the program meets industry standards.

**Sec. 11. 20-A MRSA §8401**, as amended by PL 1991, c. 518, §11 and c. 655, §8, is repealed and the following enacted in its place:

**§8401. Career and technical education centers**

**1. Centers established.** A career and technical education center must be operated in the following school administrative units and must serve its affiliated units:

- A. Augusta;
- B. Biddeford;
- C. Calais;
- D. Lewiston;
- E. Machias;
- F. Portland;
- G. Sanford;
- H. Waterville;
- I. Westbrook;
- J. School Administrative District No. 46 (Dexter, Exeter, Garland and Ripley);
- K. Regional School Unit No. 1 (Arrowsic, Bath, Phippsburg, West Bath and Woolwich);
- L. Regional School Unit No. 9 doing business as School Administrative District No. 9 (Chester-ville, Farmington, Industry, New Sharon, New Vineyard, Temple, Vienna, Weld and Wilton);
- M. Regional School Unit No. 24 (Eastbrook, Ellsworth, Franklin, Gouldsboro, Hancock, Lamoine, Mariaville, Sorrento, Steuben, Sullivan, Waltham and Winter Harbor);
- N. Regional School Unit No. 39 (Caribou, Limestone and Stockholm);
- O. Regional School Unit No. 54 doing business as School Administrative District No. 54 (Canaan, Cornville, Mercer, Norridgewock, Skowhegan and Smithfield);

P. Regional School Unit No. 61 doing business as School Administrative District No. 61 (Bridgton, Casco, Naples and Sebago);

Q. Regional School Unit No. 79 doing business as School Administrative District No. 1 (Castle Hill, Chapman, Mapleton, Presque Isle and Westfield);

R. Regional School Unit No. 88 doing business as School Administrative District No. 24 (Cyr Plantation, Hamlin and Van Buren); and

S. St. John Valley for Alternative Organizational Structure 62 (Madawaska and Grand Isle), School Administrative District No. 10 (Allagash), School Administrative District No. 27 (Eagle Lake, Fort Kent, New Canada, St. Francis, St. John Plantation, Wallagrass and Winterville Plantation) and Regional School Unit No. 33 doing business as School Administrative District No. 33 (Frenchville and St. Agatha).

**Sec. 12. 20-A MRSA §8402**, as amended by PL 2007, c. 667, §12, is further amended to read:

**§8402. Programs**

A center shall provide programs of career and technical education. Programs of career and technical education are eligible to receive state subsidy pursuant to chapters 606-B and 609. All programs of career and technical education offered by a center must be approved by the commissioner pursuant to section ~~8306-A~~ 8306-B, including programs previously approved under former section 8306-A. The programs must offer a sequence of courses that are directly related to the preparation of individuals for employment in current or emerging occupations and may include training and education in academic and business skills preparing students to further their education at the community college or other college level or allowing students to use trade and occupational skills on other than an employee basis. ~~Programs of career and technical education may also include alternative education programs and training and education in music, athletics, art and other activities approved by the commissioner pursuant to section 8306-A.~~

**Sec. 13. 20-A MRSA §8403-A, sub-§2**, as corrected by RR 2003, c. 2, §56, is amended to read:

**2. Procedure for authorizing career and technical education satellite programs.** Any affiliated unit that wishes to operate a career and technical education satellite program shall submit a written request to operate such a satellite program to the governing body of the center with which the unit is affiliated. The request must fully document the perceived need for the operation of a satellite program. The governing body of the center with which the unit is affiliated shall consider the request and forward its recommendation to the commissioner concerning whether that

request should be approved. The commissioner shall act on the request pursuant to section ~~8306-A~~ 8306-B.

**Sec. 14. 20-A MRSA §8403-A, sub-§8** is enacted to read:

**8. Access.** A unit that operates a satellite program shall allow access by students from units affiliated with the career and technical education center or region.

**Sec. 15. 20-A MRSA §8404, sub-§3**, as amended by PL 2005, c. 2, Pt. D, §26 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is further amended to read:

**3. Duties.** The advisory committee:

A. Shall advise and assist the center and its satellite programs in the preparation and submission of an annual report on the center and satellite programs to the commissioner and to each municipality served by the center or satellite programs;

B. Shall develop a cooperative agreement delineating the duties and powers of the advisory committee. A cooperative agreement or any amendment to the agreement must be ratified by the school board of each unit or affiliated unit served by the center. A cooperative agreement must be reviewed annually by the advisory committee and submitted by the center and its affiliated units to the commissioner; and

~~C. Shall, in the event that the school boards of School Administrative District No. 27, School Administrative District No. 33 and Madawaska School Department enter into a cooperative agreement pursuant to section 8401 and a new career and technical education center in Maine School Administrative District No. 33 becomes operational, devise a cost sharing formula for the center established thereby pertaining to the cost of career and technical education programs that exceed expenditures made for those programs in the base year as adjusted pursuant to section 15681 A, subsection 4 and to the local share of debt service costs attributable to construction of the center in School Administrative District No. 33;~~

D. May devise a formula for sharing costs of the center among the member units served by that center. Such a formula or any amendment to the formula must be ratified by the school board of each unit or affiliated unit served by the center. Any such unit may withdraw, subject to obligations incurred by the unit for any debt issued previously by or for the benefit of the center, from such a cost-sharing formula at the end of any fiscal year following one year's written notice to all other units served by the center. Following withdrawal by such a unit, the center shall, if the unit

wishes, continue to serve that unit under a financial arrangement approved by the center that does not assess the unit a per pupil assessment that exceeds the per pupil assessments of the other participating units;

~~E. Shall, for the purposes of calculating program costs for state subsidy purposes for fiscal year 2000-01 for the City of Portland and the other school units affiliated with Portland Arts and Technology High School, reallocate the total career and technical education costs of Portland Arts and Technology High School for fiscal year 1998-99 among the City of Portland and those units on the basis of the average of the percentage of the number of pupils attending Portland Arts and Technology High School from the City of Portland and each of those units on October 1, 1997 and October 1, 1998;~~

~~F. Shall, for the purposes of calculating program costs for state subsidy purposes for fiscal year 2001-02 for the City of Portland and the other school units affiliated with Portland Arts and Technology High School, reallocate the total career and technical education costs for fiscal year 1999-00 among the City of Portland and those units on the basis of the average of the percentage of the number of pupils attending Portland Arts and Technology High School from the City of Portland and each of those units on October 1, 1998 and October 1, 1999;~~

~~G. Shall, for the purposes of calculating program costs for state subsidy purposes of fiscal year 2000-01 for the City of Westbrook and the other school units affiliated with Westbrook Regional Vocational Center, reallocate the total career and technical education costs of Westbrook Regional Vocational Center for fiscal year 1998-99 among the City of Westbrook and those units on the basis of the average of the percentage of the number of pupils attending Westbrook Regional Vocational Center from the City of Westbrook and each of those units on October 1, 1997 and October 1, 1998; and~~

~~H. Shall, for the purposes of calculating program costs for state subsidy purposes for the fiscal year 2001-02 for the City of Westbrook and the other school units affiliated with Westbrook Regional Vocational Center, reallocate the total career and technical education costs of Westbrook Regional Vocational Center for fiscal year 1999-00 among the City of Westbrook and those units on the basis of the average of the percentage of the number of pupils attending Westbrook Regional Vocational Center from the City of Westbrook and each of those units on October 1, 1998 and October 1, 1999.~~

**Sec. 16. 20-A MRSA §8405**, as amended by PL 1991, c. 518, §16 and c. 716, §7 and PL 2003, c. 545, §6, is further amended to read:

**§8405. Director**

A unit operating a center shall employ a certified career and technical education director.

**1. Qualifications.** The career and technical education director must meet the qualifications prescribed by the state board in accordance with section 13011, subsection 5.

**2. Administrative status.** The career and technical education director shall serve as chief administrative officer of the center and has the authority of a principal in the unit operating the center.

**Sec. 17. 20-A MRSA §8451, sub-§2**, as amended by PL 1999, c. 39, §1 and PL 2003, c. 545, §5, is repealed and the following enacted in its place:

**2. Boundaries.** The career and technical education regions have boundaries as follows.

B. Region 2. SOUTHERN AROOSTOOK COUNTY. Units located in this region include:

- (1) Bancroft;
- (2) Benedicta Township;
- (3) Orient;
- (4) Regional School Unit No. 29 doing business as School Administrative District No. 29 (Hammond, Houlton, Littleton and Monticello);
- (5) Regional School Unit No. 50 (Crystal Dyer Brook, Hersey, Island Falls, Merrill, Moro Plantation, Mount Chase, Oakfield, Patten, Sherman, Smyrna and Stacyville);
- (6) Regional School Unit No. 70 doing business as School Administrative District No. 70 (Amity, Cary Plantation, Haynesville and Hodgdon) and Linneus, Ludlow and New Limerick; and
- (7) Regional School Unit No. 84 doing business as School Administrative District No. 14 (Danforth and Weston).

C. Region 3. NORTHERN PENOBSCOT COUNTY. Units located in this region include:

- (1) Carroll Plantation;
- (2) Drew Plantation;
- (3) East Millinocket;
- (4) Glenwood Plantation;
- (5) Lakeville;
- (6) Lambert Lake Township;

- (7) Lowell;
- (8) Macwahoc Plantation;
- (9) Medford;
- (10) Medway;
- (11) Millinocket;
- (12) Prentiss Township;
- (13) Reed Plantation;
- (14) Seboeis Plantation;
- (15) Vanceboro;
- (16) Woodville;
- (17) Regional School Unit No. 30 doing business as School Administrative District No. 30 (Lee, Springfield, Webster Plantation and Winn);
- (18) Regional School Unit No. 31 doing business as School Administrative District No. 31 (Burlington, Edinburg, Enfield, Howland, Maxfield and Passadumkeag);
- (19) Regional School Unit No. 67 (Chester, Lincoln and Mattawamkeag); and
- (20) East Range Community School District (Codyville Plantation and Topsfield).

D. Region 4. SOUTHERN PENOBSCOT COUNTY. Units located in this region include:

- (1) Bangor;
- (2) Brewer;
- (3) Dedham;
- (4) Grand Falls Township;
- (5) Greenbush;
- (6) Greenfield Township;
- (7) Hermon;
- (8) Indian Island, Penobscot Indian Reservation;
- (9) Milford;
- (10) Orrington;
- (11) Regional School Unit No. 22 doing business as School Administrative District No. 22 (Hampden, Newburgh and Winterport);
- (12) Regional School Unit No. 26 (Glenburn, Orono and Veazie);
- (13) Regional School Unit No. 34 (Alton, Bradley and Old Town);

(14) Regional School Unit No. 63 doing business as School Administrative District No. 63 (Clifton, Eddington and Holden);

(15) Regional School Unit No. 64 doing business as School Administrative District No. 64 (Bradford, Corinth, Hudson, Kenduskeag and Stetson);

(16) Regional School Unit No. 87 doing business as School Administrative District No. 23 (Carmel and Levant); and

(17) Airline Community School District (Amherst, Aurora, Great Pond and Osborn).

F. Region 7. WALDO COUNTY. Units located in this region include:

(1) Regional School Unit No. 3 doing business as School Administrative District No. 3 (Brooks, Freedom, Jackson, Knox, Liberty, Monroe, Montville, Thorndike, Troy, Unity and Waldo); and

(2) Regional School Unit No. 20 (Belfast, Belmont, Frankfort, Morrill, Northport, Searsport, Stockton Springs and Swanville).

G. Region 8. KNOX COUNTY. Units located in this region include:

(1) Islesboro;

(2) Monhegan Island Plantation;

(3) Regional School Unit No. 7 doing business as School Administrative District No. 7 (North Haven);

(4) Regional School Unit No. 8 doing business as School Administrative District No. 8 (Vinalhaven);

(5) Regional School Unit No. 13 (Cushing, Owls Head, Rockland, St. George, South Thomaston and Thomaston);

(6) Regional School Unit No. 40 doing business as School Administrative District No. 40 (Friendship, Union, Waldoboro, Warren and Washington);

(7) Regional School Unit No. 65 doing business as School Administrative District No. 65 (Matinicus Isle Plantation); and

(8) Five Town Community School District (Appleton, Camden, Hope, Lincolnville and Rockport).

H. Region 9. NORTHERN OXFORD COUNTY. Units located in this region include:

(1) Albany Township;

(2) Gilead;

(3) Mason Township;

(4) Milton Township;

(5) Riley Township;

(6) Upton, as long as it sends its secondary students to schools operated by administrative units within the region;

(7) The portion of Regional School Unit No. 10 comprising the municipalities in the former units of Hanover, Peru, School Administrative District No. 21 (Canton, Carthage and Dixfield) and School Administrative District No. 43 (Byron, Mexico, Roxbury and Rumford); and

(8) Regional School Unit No. 44 doing business as School Administrative District No. 44 (Andover, Bethel, Greenwood, Newry and Woodstock).

I. Region 10. EASTERN CUMBERLAND-SAGADAHOC COUNTY. Units located in this region include:

(1) Brunswick;

(2) Regional School Unit No. 5 (Durham, Freeport and Pownal); and

(3) Regional School Unit No. 75 doing business as School Administrative District No. 75 (Bowdoin, Bowdoinham, Harpswell and Topsham).

J. Region 11. SOUTHERN OXFORD COUNTY. Units located in this region include:

(1) The portion of Regional School Unit No. 10 comprising the municipalities in the former School Administrative Unit No. 39 (Buckfield, Hartford and Sumner); and

(2) Regional School Unit No. 17 doing business as School Administrative District No. 17 (Harrison, Hebron, Norway, Otisfield, Oxford, Paris, Waterford and West Paris).

**Sec. 18. 20-A MRSA §8451, sub-§5**, as corrected by RR 2003, c. 2, §60, is amended to read:

**5. Northern Aroostook County.** Northern Aroostook County is also a region.

A. Public secondary schools located at ~~Van Buren~~, in the school administrative units of Madawaska, St. Agatha, ~~Fort Kent~~ and Allagash School Administrative District No. 10 (Allagash), School Administrative District No. 27 (Eagle Lake, Fort Kent, New Canada, St. Francis, St. John Plantation, Wallagrass and Winterville Plantation) and Regional School Unit No. 33 doing business as School Administrative District No. 33 (Frenchville and St. Agatha) are served by ~~centers~~ a center located in ~~Van Buren, Madawaska and Fort~~

~~Kent Frenchville (St. John Valley Technology Center), provided that in the event that as long as the school boards of former School Administrative District No. 27 (Eagle Lake, Fort Kent, New Canada, St. Francis, St. John Plantation, Wallagrass and Winterville Plantation), former School Administrative District No. 33 (Frenchville and St. Agatha) and Madawaska enter into a cooperative agreement pursuant to section 8401, the agreement must provide that if a new center located in Maine School Administrative District No. 33 becomes operational, career and technical education students from Maine School Administrative District No. 10 (Allagash) must be allocated slots in the career and technical education programs at the center as tuition students on the same basis as students from the 3 participating units and that career and technical education students from Regional School Unit No. 88 doing business as School Administrative District No. 24 (Cyr Plantation, Hamlin and Van Buren) must be permitted to attend that center on a tuition basis to the extent that there are unused slots available in the career and technical education programs at the center.~~

B. Notwithstanding sections 8452 to 8459, ~~these the centers under paragraph A~~ are governed by the school boards of the units operating the centers, but have an advisory committee, as defined in section 8404, for the Northern Aroostook County region, ~~provided except that, in the event that the school boards of School Administrative District No. 27, Regional School Unit No. 33 doing business as School Administrative District No. 33 and the Madawaska School Department school administrative unit~~ enter into a cooperative agreement pursuant to section 8401, the Northern Aroostook County advisory committee must be made up of representatives of those 3 administrative units and the advisory committee has authority to review applications for employment and personnel records relating to the career and technical education director and teachers in the career and technical education programs of the center in order for the advisory committee to make employment recommendations to the Superintendent of Schools of ~~Maine Regional School Unit No. 33 doing business as School Administrative District No. 33.~~

~~C. In the event that School Administrative District No. 27, School Administrative District No. 33 and Madawaska School Department enter into a cooperative agreement pursuant to section 8401, not later than June 30, 1989, the school boards of the 3 participating units shall, in conjunction with the advisory committee, develop and submit a plan to the commissioner for providing secondary career and technical education within the 3 participating units. The plan must include:~~

~~(1) A proposal for the construction of a new center in School Administrative District No. 33;~~

~~(2) Provisions for assignment without loss of salary of all continuing contract career and technical education teachers employed by School Administrative District No. 27 and Madawaska School Department to School Administrative District No. 33 if a new center in School Administrative District No. 33 becomes operational; and~~

~~(3) Assurances that all 3 participating administrative units, and School Administrative District No. 10 on a tuition basis, have access to programs at the new center in proportion to the number of high school students in each administrative unit.~~

~~D. The plan developed under paragraph C must be submitted to the commissioner for approval. The commissioner may make necessary recommendations to the participating units to assist in the implementation of the plan for the school year 1991-92.~~

~~E. If the school boards of School Administrative District No. 27, School Administrative District No. 33 and Madawaska enter into a cooperative agreement pursuant to section 8401 and if a plan developed under paragraph C is approved by the commissioner, School Administrative District No. 33 has the authority to undertake school construction projects for career and technical education in accordance with the provisions of chapter 609 and to borrow money and issue bonds and notes of the district for school construction projects in accordance with section 1311 and sections 1351 to 1354.~~

~~F. Section 8301-A, subsection 6 and sections 8452 to 8467 do not apply to the region established for Northern Aroostook County under this section.~~

**Sec. 19. 20-A MRSA §8451-A**, as amended by PL 2007, c. 667, §13, is further amended to read:

**§8451-A. Programs**

A region shall provide programs of career and technical education. Programs of career and technical education are eligible to receive state subsidy pursuant to chapters 606-B and 609. All programs of career and technical education offered by a region must be approved by the commissioner pursuant to section 8306-A ~~8306-B~~. The programs must offer a sequence of courses that are directly related to the preparation of individuals for employment in current or emerging occupations and may include training and education in academic and business skills preparing students to further their education at the community college or

college level or allowing students to use trade and occupational skills on other than an employee basis. ~~Programs of career and technical education may also include alternative education programs and training and education in music, athletics, art and other activities approved by the commissioner pursuant to section 8306-A.~~

**Sec. 20. 20-A MRSA §8457, sub-§1**, as amended by PL 2009, c. 154, §4, is further amended to read:

**1. General powers and duties.** A cooperative board has all of the powers and duties of a school board as provided in section 1001, subsections 1, 2, 4 to 7, 11-A and 12; section 1002; section 1256, subsections 1, 2 and 4 to 7; section 1257; sections 1313 to 1315; section 4801; section 13201; and section 13202. For such purposes, references in those sections to "school administrative unit," "administrative unit," "school unit," "unit," "school administrative district" or "district" district," "district," "regional school unit," "RSU," "alternative organizational structure" or "AOS" mean career and technical education region; references in those sections to "school board," "school committee," "board," "board of directors" or "directors" mean cooperative board; references in those sections to "director" mean a member of a cooperative board; and references in those sections to "they" mean either, as appropriate in the context, cooperative board or members of the cooperative board.

**Sec. 21. 20-A MRSA §8459, sub-§2**, as amended by PL 1991, c. 518, §26 and PL 2005, c. 397, Pt. D, §3, is further amended to read:

**2. Meeting with career and technical education director.** Shall meet with the ~~vocational career and technical education~~ director of the region at least 4 times each calendar year to review current and proposed programs, budgets and issues relating to career and technical education in the region.

**Sec. 22. 20-A MRSA §8466**, as amended by PL 1991, c. 518, §31 and PL 2005, c. 397, Pt. D, §3, is further amended to read:

**§8466. Transfer or lease of school property to a career and technical education region**

**1. Authority.** A unit within a region may transfer or lease unused property of the unit to the region for career and technical education purposes.

**2. Definitions.** For purposes of this section, "unit" includes a special school district ~~is considered a unit.~~

**Sec. 23. 20-A MRSA §12703**, as amended by PL 1989, c. 443, §35 and PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

**§12703. Mission and goals**

The basic mission of the Maine Community College System is to provide associate degree, diploma and certificate programs directed at the educational, ~~occupational career~~ and technical needs of the State's citizens and the workforce needs of the State's employers.

The primary goals of ~~post-secondary vocational-technical postsecondary career and technical~~ education and the Maine Community College System are to create an educated, skilled and adaptable labor force ~~which~~ that is responsive to the changing needs of the economy of the State and to promote local, regional and statewide economic development.

**Sec. 24. 20-A MRSA §12704, sub-§1**, as amended by PL 1991, c. 615, Pt. A, §1, is further amended to read:

**1. Long-term and short-term training.** Providing, in close cooperation with the private sector, both the long-term education and training required for certain ~~vocational career~~ and technical occupations, including occupational health and safety aspects of those occupations, and the short-term training necessary to meet specific private sector and economic development needs;

**Sec. 25. 20-A MRSA §12704, sub-§4**, as amended by PL 1989, c. 443, §36, is further amended to read:

**4. General and related education.** Offering each college student a general education designed to complement specific ~~vocational career~~ and technical skills and offering courses and curricula designed to teach students to think clearly, logically and analytically and to comprehend the multiple dimensions and facets of public and private issues and problems;

**Sec. 26. 20-A MRSA §13019-C, sub-§1**, as amended by PL 2001, c. 534, §9 and PL 2005, c. 397, Pt. D, §3, is further amended to read:

**1. Initial certificate.** A director of career and technical education certificate ~~shall be~~ is required of each director of a ~~vocational career and technical education~~ region or center established pursuant to this Title and of a ~~vocational career and technical education~~ program in an approved school. State board rules ~~shall~~ must require that qualifications for such a certificate include the following:

A. Three years of satisfactory experience in teaching or ~~vocational career and technical education~~ training or equivalent experience;

B. Academic and professional knowledge as demonstrated through completion of graduate or undergraduate courses or programs, performance in examinations or completion of specialized programs approved for this purpose;

C. A basic level of knowledge in competency areas determined by the state board; and

D. Satisfactory completion of an approved internship or practicum relating to the duties of a director of career and technical education.

**Sec. 27. 20-A MRSA §15672, sub-§1-D** is enacted to read:

**1-D. Career and technical education costs.** "Career and technical education costs" for subsidy purposes means all costs incurred by the career and technical education regions, centers or satellites in providing approved secondary school career and technical education programs, excluding transportation, capital costs and debt service.

**Sec. 28. 20-A MRSA §15672, sub-§32-D**, as enacted by PL 2005, c. 2, Pt. D, §36 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is repealed.

**Sec. 29. 30-A MRSA §4722, sub-§1, ¶Y**, as amended by PL 2007, c. 562, §5, is further amended to read:

Y. Expand access to housing for young professionals and young families. The Maine State Housing Authority shall develop recommendations to create or modify programs with the goal of expanding access to housing for young professionals and young families. The Maine State Housing Authority shall specifically consider strategies to assist renters and first-time home buyers who are under 35 years of age and explore options for linking assistance levels to student loan obligations. The Maine State Housing Authority shall collaborate with the Maine Community College System, ~~vocational high schools~~ career and technical education programs and community action programs to encourage the development of affordable housing in high-cost housing areas of the State.

(1) The Maine State Housing Authority shall report its findings and recommendations regarding expanded access to housing for young professionals and young families to the Maine Development Foundation and to the joint standing committee of the Legislature having jurisdiction over housing matters no later than January 15, 2005;

**Sec. 30. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 20-A, chapter 313, in the chapter headnote, the words "applied technology education" are amended to read "career and technical education" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. 31. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 20-A, chapter 313, subchapter 3, in the

subchapter headnote, the words "applied technology centers" are amended to read "career and technical education centers" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. 32. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 20-A, chapter 313, subchapter 4, in the subchapter headnote, the words "applied technology regions" are amended to read "career and technical education regions" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

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## CHAPTER 680

H.P. 1263 - L.D. 1711

### An Act To Adopt the Use of Standardized Risk Assessment in the Management of Domestic Violence Crimes

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 15 MRSA §1023, sub-§4, ¶C**, as amended by PL 2011, c. 341, §2, is further amended to read:

C. In a case involving domestic violence, set pre-conviction bail for a defendant before making a good faith effort to obtain from the arresting officer, the responsible prosecutorial office, a jail employee or other law enforcement officer:

- (1) A brief history of the alleged abuser;
- (2) The relationship of the parties;
- (3) The name, address, phone number and date of birth of the victim; ~~and~~
- (4) Existing conditions of protection from abuse orders, conditions of bail and conditions of probation; and

(5) Beginning no later than January 1, 2015, the results of a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title

5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety conducted on the alleged abuser when the results are available;

**Sec. 2. 15 MRSA §1026, sub-§4, ¶C,** as amended by PL 2007, c. 374, §9, is further amended to read:

C. The history and characteristics of the defendant, including, but not limited to:

- (1) The defendant's character and physical and mental condition;
- (2) The defendant's family ties in the State;
- (3) The defendant's employment history in the State;
- (4) The defendant's financial resources;
- (5) The defendant's length of residence in the community and the defendant's community ties;
- (6) The defendant's past conduct, including any history relating to drug or alcohol abuse;
- (7) The defendant's criminal history, if any;
- (8) The defendant's record concerning appearances at court proceedings;
- (9) Whether, at the time of the current offense or arrest, the defendant was on probation, parole or other release pending trial, sentencing, appeal or completion of a sentence for an offense in this jurisdiction or another;
- (9-A) Any evidence that the defendant poses a danger to the safety of others in the community, including the results of a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety;
- (10) Any evidence that the defendant has obstructed or attempted to obstruct justice by threatening, injuring or intimidating a victim or a prospective witness, juror, attorney for the State, judge, justice or other officer of the court; and
- (11) Whether the defendant has previously violated conditions of release, probation or other court orders, including, but not limited to, violating protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011.

**Sec. 3. 19-A MRSA §4012, sub-§6,** as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**6. Officer responsibilities.** When a law enforcement officer has reason to believe that a family or household member has been abused, the officer shall immediately use all reasonable means to prevent further abuse, including:

- A. Remaining on the scene as long as the officer reasonably believes there is a danger to the physical safety of that person without the presence of a law enforcement officer, including, but not limited to, staying in the dwelling unit;
- B. Assisting that person in obtaining medical treatment necessitated by an assault, including driving the victim to the emergency room of the nearest hospital;
- C. Giving that person immediate and adequate written notice of that person's rights, which include information summarizing the procedures and relief available to victims of the family or household abuse; or
- D. Arresting the abusing party with or without a warrant pursuant to section 4011 and Title 17-A, section 15.

Beginning no later than January 1, 2015, in addition to the actions specified in this subsection, the law enforcement officer shall make a good faith effort to administer a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety. The law enforcement officer administering this assessment shall provide the results of the assessment to the bail commissioner, if appropriate, and the district attorney for the county in which the abuse took place.

**Sec. 4. 25 MRSA §2803-B, sub-§1, ¶D,** as amended by PL 2011, c. 265, §2, is further amended to read:

D. Domestic violence, which must include, at a minimum, the following:

- (1) A process to ensure that a victim receives notification of the defendant's release from jail;
- (2) A process for the collection of information regarding the defendant that includes the defendant's previous history, the parties' relationship, the name of the victim and a process to relay this information to a bail commissioner before a bail determination is made;
- (3) A process for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a possible neutral location for retrieval, the presence of at least one law enforcement officer during the retrieval and giving the victim

the option of at least 24 ~~hours~~ hours' notice to each party prior to the retrieval; ~~and~~

(4) Standard procedures to ensure that protection from abuse orders issued under Title 19-A, section 4006 or 4007 are served on the defendant as quickly as possible; and

(5) A process for the administration of a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety and the conveyance of the results of that assessment to the bail commissioner, if appropriate, and the district attorney for the county in which the domestic violence occurred.

**Sec. 5. 25 MRSA §2803-B, sub-§2,** as amended by PL 2011, c. 265, §3, is further amended to read:

**2. Minimum policy standards.** The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995, except that policies for expanded requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (4) must be established no later than January 1, 2012 and the policy for the use of, and the submission of the results of, the validated, evidence-based domestic violence risk assessment under subsection 1, paragraph D, subparagraph (5) must be established no later than January 1, 2013; policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004; policies for public notification regarding persons in the community required to register under Title 34-A, chapter 15 under subsection 1, paragraph J must be established no later than January 1, 2006; policies for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be established no later than January 1, 2005; policies for the expanded use of physical force, including the use of electronic weapons and less-than-lethal munitions under subsection 1, paragraph A, must be established no later than January 1, 2010; and policies for mental illness and the process for involuntary commitment under subsection 1, paragraph L must be established no later than January 1, 2010.

**Sec. 6. 25 MRSA §2803-B, sub-§3,** as amended by PL 2011, c. 265, §4, is further amended to read:

**3. Agency compliance.** The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2, except that certification to the board for

expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (4) must be made to the board no later than June 1, 2012 and for the policy for the use of, and the submission of the results of, the validated, evidence-based domestic violence risk assessment under subsection 1, paragraph D, subparagraph (5) must be made to the board no later than July 1, 2013; certification to the board for adoption of a death investigation policy under subsection 1, paragraph I must be made to the board no later than June 1, 2004; certification to the board for adoption of a public notification policy under subsection 1, paragraph J must be made to the board no later than June 1, 2006; certification to the board for adoption of a policy for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than June 1, 2005; certification to the board for adoption of an expanded use of physical force policy under subsection 1, paragraph A must be made to the board no later than June 1, 2010; and certification to the board for adoption of a policy regarding mental illness and the process for involuntary commitment under subsection 1, paragraph L must be made to the board no later than June 1, 2010. The certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) and (3) must be made to the board no later than January 1, 2004; certification for orientation and training with respect to the administration of a validated, evidence-based domestic violence risk assessment under subsection 1, paragraph D, subparagraph (5) must be made to the board no later than January 1, 2014; certification for orientation and training with respect to policies regarding death investigations under subsection 1, paragraph I must be made to the board no later than January 1, 2005; certification for orientation and training with respect to policies regarding public notification under subsection 1, paragraph J must be made to the board no later than January 1, 2007; certification for orientation and training with respect to policies regarding the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than January 1, 2006; certification for orientation and training with respect to policies regarding expanded use of physical force under subsection 1, paragraph A must be made to the board no later than January 1, 2011; and certification for orientation and training with respect to policies regarding mental illness and the process for involuntary commitment under subsection 1, paragraph L must be made to the board no later than January 1, 2011.

**Sec. 7. 34-A MRSA §5404, sub-§3, ¶E**, as amended by PL 2005, c. 389, §6, is further amended to read:

E. Supervise the transition from institutional confinement for persons residing in a prerelease center if the commissioner directs; ~~and~~

**Sec. 8. 34-A MRSA §5404, sub-§3-A** is enacted to read:

**3-A. Risk assessment; immunity from liability.** Make a good faith effort to supplement any assessment tool for all domestic violence offenders with a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-L, subsection 74-C, and approved by the Department of Public Safety. A probation and parole or intensive supervision program officer shall implement protocols to override risk assessment scores based on the presence of domestic violence risk factors that indicate a higher risk.

Notwithstanding any other law to the contrary, the administration of the domestic violence risk assessment pursuant to this subsection or the failure to administer the assessment does not subject any state, municipal or county official or employee to liability in a civil action; and

See title page for effective date.

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**CHAPTER 681**

**H.P. 1237 - L.D. 1685**

**An Act To Conform Maine Law to Federal Law Regarding Payment of Overtime to Truck Drivers and Driver's Helpers**

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

**Sec. 1. 26 MRSA §664, sub-§3, ¶F**, as amended by PL 2001, c. 628, §2 and affected by §5, is further amended to read:

F. The canning, processing, preserving, freezing, drying, marketing, storing, packing for shipment or distribution of:

- (1) Agricultural produce;
- (2) Meat and fish products; and
- (3) Perishable foods.

Individuals employed, directly or indirectly, for or at an egg processing facility that has over 300,000 laying birds must be paid overtime in accordance with this subsection; and

**Sec. 2. 26 MRSA §664, sub-§3, ¶¶H, I and J**, as enacted by PL 2001, c. 628, §3 and affected by §5, are repealed.

**Sec. 3. 26 MRSA §664, sub-§3, ¶K** is enacted to read:

K. A driver or driver's helper who is not paid hourly and is subject to the provisions of 49 United States Code, Section 31502 as amended or to regulations adopted pursuant to that section, who is governed by the applicable provisions of federal law with respect to payment of overtime.

Nothing in this paragraph may be construed to limit the rights of parties to negotiate rates of pay for drivers and driver's helpers who are represented for purposes of collective bargaining by a labor organization certified by the National Labor Relations Board or who are employed by an entity that is party to a contract with the Federal Government or an agency of the Federal Government that dictates the minimum hourly rate of pay to be paid a driver or driver's helper.

**Sec. 4. Report.** The director of the wage and hour division within the Department of Labor, within the division's existing resources, shall review the impact of this Act on drivers and driver's helpers who are paid by other than an hourly rate and report to the joint standing committee of the Legislature having jurisdiction over labor matters by January 15, 2014. The report must include the number of employers who began paying drivers and driver's helpers by a rate other than hourly after the effective date of this Act, the rate of pay, any complaints received by the division with regard to drivers or driver's helpers earning less than the reasonable equivalent of 1 1/2 times the regular hourly rate paid for work over 40 hours in a week and whether this Act has been successful in attracting new employers of drivers and driver's helpers.

See title page for effective date.

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**CHAPTER 682**

**H.P. 1325 - L.D. 1798**

**An Act To Reform Land Use Planning in the Unorganized Territory**

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

**Sec. 1. 5 MRSA §12004-D, sub-§1**, as amended by PL 2007, c. 617, §1, is repealed.

**Sec. 2. 5 MRSA §12004-D, sub-§1-A** is enacted to read:

**1-A.**

Maine Land Use Planning Commission

Legislative Per Diem Plus Expenses. Notwithstanding any limitation on noontime meal expenses in section 12002, subsection 2, for each day in attendance at a commission meeting or hearing, each member is entitled to a meal allowance not to exceed the legislative meal allowance for each session day as provided for in Title 3, section 2.

12 MRSA §683-A

**Sec. 3. 12 MRSA §681**, as amended by PL 2009, c. 401, §1, is further amended to read:

**§681. Purpose and scope**

The Legislature finds that it is desirable to extend principles of sound planning, zoning and ~~subdivision control~~ development to the unorganized and deorganized townships of the State: To preserve public health, safety and general welfare; to support and encourage Maine's natural resource-based economy and strong environmental protections; to encourage appropriate residential, recreational, commercial and industrial land uses; to honor the rights and participation of residents and property owners in the unorganized and deorganized areas while recognizing the unique value of these lands and waters to the State; to prevent inappropriate residential, recreational, commercial and industrial uses detrimental to the proper long-term health, use of and value of these areas and to Maine's natural resource-based economy; to prevent discourage the intermixing of incompatible industrial, commercial, residential and recreational activities; to provide for appropriate residential, recreational, commercial and industrial uses; to prevent the development in these areas of substandard structures or structures located unduly proximate to waters or roads; to prevent the despoliation, pollution and inappropriate use detrimental uses of the water in these areas; and to preserve conserve ecological and natural values.

The Legislature declares it to be in the public interest, for the public benefit, for the good order of the people of this State and for the benefit of the property owners and residents of the unorganized and deorganized townships of the State, to encourage the well-planned and well-managed multiple use, including conservation, of land and resources and to encourage and facilitate regional economic viability. The Legislature acknowledges the importance of these areas in the continued vitality of the State and to local economies. Finally, the Legislature desires to encourage the appropriate use of these lands by the residents of

Maine and visitors in pursuit of outdoor recreation activities, including, but not limited to, hunting, fishing, boating, hiking and camping.

**Sec. 4. 12 MRSA §682, sub-§1**, as amended by PL 2009, c. 615, Pt. D, §1, is repealed and the following enacted in its place:

**1. Unorganized and deorganized areas.** "Unorganized and deorganized areas" includes:

- A. All unorganized and deorganized townships;
- B. Plantations that have not received commission approval under section 685-A, subsection 4-A to implement their own land use controls;
- C. Municipalities that have organized since 1971 that have not received commission approval under section 685-A, subsection 4-A to implement their own land use controls; and
- D. All other areas of the State that are not part of a municipality except Indian reservations.

For the purposes of permitting a community-based offshore wind energy project and structures associated with resource analysis activities necessary for such an intended project, the area of submerged land to be occupied for such a project and resource analysis structures is considered to be in the unorganized or deorganized areas.

**Sec. 5. 12 MRSA §682, sub-§20** is enacted to read:

**20. Planned subdistrict.** "Planned subdistrict" means a delineated area for which a specific land use plan and standards have been agreed to by the owner of the land within the delineated area and approved by the commission.

**Sec. 6. 12 MRSA §683**, as amended by PL 2009, c. 328, §1, is repealed.

**Sec. 7. 12 MRSA §683-A** is enacted to read:

**§683-A. Creation of Maine Land Use Planning Commission**

The Maine Land Use Planning Commission, as established by Title 5, section 12004-D, subsection 1-A to carry out the purposes stated in section 681, is created within the Department of Conservation and in this chapter called "the commission." The commission is charged with implementing this chapter. The commission consists of 9 members, nominated in accordance with subsections 1 and 2. All nominations under this section are subject to review by the joint standing committee of the Legislature having jurisdiction over conservation matters and to confirmation by the Senate.

**1. Nomination by the Governor.** Except as provided in subsection 2, the Governor shall nominate one member to the commission. In selecting a nomi-

nee, the Governor shall actively seek and give consideration to persons residing in or near the unorganized and deorganized areas of the State and to persons residing on unorganized coastal islands. A nominee under this subsection must be familiar with the needs and issues affecting the commission's jurisdiction and must:

- A. Reside in the commission's jurisdiction;
- B. Work in the commission's jurisdiction;
- C. Be a former resident or be retired after having worked for a minimum of 5 years within the commission's jurisdiction; or
- D. Have expertise in commerce and industry, fisheries and wildlife, forestry or conservation issues as they relate to the commission's jurisdiction.

**2. Members representing a county.** One member must be nominated by each of the 8 counties with the most acreage in the unorganized or deorganized areas subject to the jurisdiction of the commission. The county commissioners of each of the counties shall nominate a resident of that county to serve as a member of the commission. A county commissioner nominated to serve on the commission may not vote on that nomination. In making nominations, the county commissioners shall actively seek and give consideration to persons residing in or near the unorganized or deorganized areas within the county.

A nominee under this subsection must have expertise in commerce and industry, fisheries and wildlife, forestry or conservation issues as they relate to the commission's jurisdiction and must:

- A. Reside in the commission's jurisdiction;
- B. Work in the commission's jurisdiction; or
- C. Be a former resident or be retired after having worked for a minimum of 5 years within the commission's jurisdiction.

If a county fails to nominate a member to the commission under this subsection within 90 business days of a vacancy on the commission to be filled by that county, the Governor shall nominate a resident of that county meeting the criteria in subsection 1 to fill the vacancy.

**3. Eligibility.** A state employee may not be appointed to or serve as a member of the commission. A county commissioner, county employee, municipal official or municipal employee is not considered to hold an incompatible office for purposes of simultaneous service on the commission. If a county or municipality is a participant in an adjudicatory proceeding before the commission, a commissioner, official or employee from that county or municipality may not participate in that proceeding as a member of the commission.

**4. Terms.** All members are appointed to 4-year terms. Any member who has not been renominated by the Governor or the county commissioners prior to the expiration of that member's term may not continue to serve on the commission, unless the Governor notifies the Legislature in writing prior to the expiration of that member's term that extension of that member's term is required to ensure fair consideration of specific major applications pending before the commission. That member's term ends upon final commission decisions on the specific applications identified in the Governor's communication. Any member renominated by the Governor prior to the expiration of that member's term shall continue to serve on the commission until the nomination is acted upon by the Legislature. A vacancy during an unexpired term is filled as provided in this section, but only for the unexpired portion of the term.

**5. Rules.** Unless otherwise provided in this chapter, rules adopted by the commission under this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 8. 12 MRSA §684, first ¶,** as amended by PL 1999, c. 333, §4, is further amended to read:

The commission shall elect annually, from its own membership, a chair and such other officers it considers necessary. Meetings are held at the call of the chair or at the call of more than 1/2 of the membership. Meetings must be held at a location within the jurisdiction of the commission or another convenient location approved by the chair. The commission, acting in accordance with the procedures set forth in Title 5, chapter 375, subchapter ~~4~~ 2, may adopt whatever rules it considers necessary for the conduct of its business. The commission shall keep minutes of all proceedings, which are a public record available and on file in the office of the commission. Members of the commission are compensated as provided in Title 5, chapter 379. Commission members must receive an orientation and annual continuing education on this chapter, commission rules and planning and regulatory processes. A quorum of the commission for the transaction of business is ~~4~~ 5 members. No action may be taken by the commission unless upon approval by a vote of ~~4~~ 5 members.

**Sec. 9. 12 MRSA §685,** as amended by PL 1987, c. 308, §5 and c. 508, is further amended to read:

**§685. Commission budget, financing and personnel**

The Commissioner of Conservation shall prepare a biennial budget and shall submit to the Legislature requests for appropriations sufficient to carry out its assigned tasks. The commission may accept contributions of any type from any source to assist it in carrying out its assigned tasks, and make such requirements in respect to the administration of such funds, not in-

consistent with this subchapter, as are required as conditions precedent to receiving such funds, federal or otherwise. The commission shall give public notice of all contributions, in the state paper, stating the source, the amount and the purpose of such contributions. The commission may contract with municipal, ~~State county, state and Federal Governments~~ federal governments or their agencies to assist in the carrying out of any of its assigned tasks. The Commissioner of Conservation, with the consent of a majority of the commission, shall appoint a director who ~~shall be~~ is the principal administrative, operational and executive employee of the commission. The director shall attend all meetings of the commission and ~~be~~ is permitted to participate fully but ~~shall~~ is not be a voting member of the commission.

The commission shall establish and maintain at least 2 field offices, one in Greenville and one in Ashland, designed principally to provide assistance to the public on permit applications and to carry out such other functions of the commission as appropriate. These field offices ~~shall~~ must be established ~~in~~ at locations in or close to the commission's jurisdiction and chosen to provide the maximum benefit to the public while minimizing costs. Historic levels of permitting activity, the convenience of access and the availability and cost of office facilities ~~shall~~ must be considered in choosing the field office locations. Each office ~~shall~~ must be open on a part-time basis at least 2 days a month or as public demand for the services of such field offices ~~warrant~~ warrants and as resources allow. Whenever practicable, the commission shall make use of existing personnel to staff these field offices. Personnel must receive regular training to address customer service and other needs.

**Sec. 10. 12 MRSA §685-A, sub-§1,** as amended by PL 1999, c. 333, §5, is further amended to read:

**1. Classification and districting of lands.** The commission, acting on principles of sound land use planning and development, shall determine the boundaries of areas within the unorganized and deorganized areas of the State that fall into land use districts and designate each area in one of the following major district classifications: protection, management and development. The commission, acting in accordance with the procedures set forth in Title 5, chapter 375, subchapter H 2, shall adopt ~~regulations~~ rules for determining the boundaries of each major type of district in accordance with the following standards:

A. Protection districts: Areas where development would jeopardize significant natural, recreational and historic resources, including, but not limited to, flood plains, precipitous slopes, wildlife habitat and other areas critical to the ecology of the region or State;

B. Management districts: Areas that are appropriate for commercial forest product or agricultural uses or for the extraction of nonmetallic minerals and for which plans for additional development are not presently formulated nor additional development anticipated; and

D. Development districts: Areas ~~discernible as having patterns of intensive~~ that are appropriate for residential, recreational, commercial or industrial use or commercial removal of metallic minerals and areas appropriate for designation as development districts when measured against the purpose, intent and provisions of this chapter.

In addition to delineating the major district classifications listed, the commission may delineate such subclassifications as may be necessary and desirable to carry out the intent of this chapter. The commission may delineate and designate planned subdistricts and establish standards unique to each to efficiently balance the benefits of development and resource protection.

**Sec. 11. 12 MRSA §685-A, sub-§4,** as amended by PL 1987, c. 737, Pt. C, §§22 and 106; PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

**4. Land use standards considered as minimum requirements.** Land use standards must be interpreted and applied by the commission as minimum requirements, adopted to reasonably and effectively promote health, safety and general welfare and ensure compliance with state plans and policies.

If the requirements of the adopted land use standards are at variance with the requirements of any other lawfully adopted rules, regulations, standards, ordinances, deed restrictions or covenants, the more protective of existing natural, recreational and historic resources governs.

**Sec. 12. 12 MRSA §685-A, sub-§4-A** is enacted to read:

**4-A. Transition from commission jurisdiction to the jurisdiction of a plantation or municipality.** Any portion of a land use district that subsequently becomes an organized municipality or part of an organized municipality or any plantation that adopts planning, zoning and subdivision control as provided in Title 30-A, section 7059 continues to be regulated by the Maine Land Use Planning Commission pursuant to this chapter until such time as the plantation or municipality of which the regulated district is then a part adopts land use plans and regulations not less protective of the existing natural, recreational or historic resources than those adopted by the commission.

A. Any municipality organized after September 23, 1971 or any plantation that adopts planning, zoning and subdivision control as provided in Ti-

tle 30-A, section 7059 may submit to the commission and receive the approval of the commission of the following:

- (1) A comprehensive land use plan for that plantation or municipality;
- (2) Standards for determining land use district boundaries and uses permitted within the districts in that plantation or municipality;
- (3) A land use district boundary map for that plantation or municipality; and
- (4) Such other proposed regulations or standards as the commission considers necessary to achieve the purpose, intent and provisions of this chapter.

Upon request of the plantation or municipality, the commission shall prepare such plans, maps, regulations and standards as it considers necessary to meet minimum planning and zoning standards for its approval of those standards.

Upon obtaining approval, the plantation or municipality shall thereafter adopt, administer and enforce the approved plans, maps, regulations and standards, except that the commission retains jurisdiction for any planned subdistrict within the municipality or plantation unless the owner of the land within the delineated area agrees to the transfer of the administration and enforcement of that planned subdistrict to the municipality or plantation.

B. From time to time, the commission may review the administration and enforcement of local land use plans and regulations by plantations and municipalities that have adopted land use plans, maps, regulations and standards approved by the commission. If, following the review, the commission finds that any of the following has occurred, the commission may reestablish its jurisdiction over that plantation or municipality:

- (1) A plantation or municipality has repealed the land use plan, maps, standards or regulations necessary to satisfy the requirements of this subsection or has substantially modified the land use plan, maps, standards or regulations so that the resources of the plantation or municipality are not reasonably protected;
- (2) A plantation or municipality has abolished or does not have functioning the administrative bodies and officers necessary to implement the land use program as approved by the commission; or
- (3) A plantation or municipality has not administered or enforced its land use plan, maps, standards or regulations in a manner

that reasonably protects the resources in the plantation or municipality involved.

The action by the commission must conform with the provisions for rulemaking of the Maine Administrative Procedure Act.

Action taken by the commission to reestablish its jurisdiction over a plantation or municipality is effective immediately, but must be submitted to the current or next regular session of the Legislature for approval. If the Legislature fails to act, the action of the commission continues in effect.

**Sec. 13. 12 MRSA §685-A, sub-§8-A, ¶B,** as enacted by PL 1999, c. 333, §10, is amended to read:

B. The proposed land use district satisfies a demonstrated need in the community or area and has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.

**Sec. 14. 12 MRSA §685-B, sub-§1-A, ¶B,** as amended by PL 2009, c. 270, Pt. D, §1, is further amended to read:

B. A Except for projects that are located in a planned subdistrict that was approved or accepted by the commission for processing prior to September 1, 2012, a permit is not required for those aspects of a project approved by the Department of Environmental Protection under Title 38 if the commission determines that the project is an allowed use within the subdistrict or subdistricts for which it is proposed. Notice of the intent to develop and a map indicating the location of the proposed development must be filed with the commission prior to or concurrently with submission of a development application to the Department of Environmental Protection;

**Sec. 15. 12 MRSA §685-B, sub-§1-A, ¶B-1** is enacted to read:

B-1. Except for projects that are located in a planned subdistrict that was approved or accepted by the commission for processing prior to September 1, 2012, a permit from the commission is not required for a development of state or regional significance that may substantially affect the environment as defined in Title 38, section 482, subsection 2. A project meeting that definition is reviewed under Title 38, section 489-A-1. A person submitting a development proposal to the Department of Environmental Protection under Title 38, section 489-A-1 shall file a notice of the intent to develop and a map indicating the location of the proposed development with the commission prior to or concurrently with submission of a de-

velopment application to the Department of Environmental Protection. The Department of Environmental Protection must receive certification from the commission that the proposed development is an allowed use within the subdistrict or subdistricts for which it is proposed and the proposed development meets any land use standard established by the commission that is not considered in the department's review under Title 38, section 489-A-1, subsection 1 before issuing a permit. Nothing in this subsection may be construed as prohibiting the commission from enforcing the land use standards certified to the Department of Environmental Protection under this paragraph.

**Sec. 16. 12 MRSA §685-B, sub-§1-C** is enacted to read:

**1-C. Delegation to county.** The commission may establish standards by which authority may be delegated to a county, upon request of the county commissioners, to approve, approve with reasonable conditions or deny applications to conduct specified activities requiring a permit and to enforce compliance with the permit. Any person aggrieved by a decision of a county has the right to appeal that decision to the commission. Such an appeal must be made within 30 days after the county decision.

**Sec. 17. 12 MRSA §685-B, sub-§2-C**, as amended by PL 2009, c. 615, Pt. D, §3, is repealed and the following enacted in its place:

**2-C. Wind energy development; community-based offshore wind energy projects; determination deadline.** For purposes of this subsection, "expedited permitting area," "grid-scale wind energy development" and "wind energy development" have the same meanings as in Title 35-A, section 3451. The following provisions govern wind energy development.

**A.** The commission shall consider any wind energy development in the expedited permitting area under Title 35-A, chapter 34-A with a generating capacity of 100 kilowatts or greater or a community-based offshore wind energy project a use requiring a permit, but not a special exception, within the affected districts or subdistricts.

**B.** All grid-scale wind energy development proposed for the unorganized or deorganized areas of the State is reviewed and permits are issued by the Department of Environmental Protection under Title 35-A, chapter 34-A and Title 38, section 489-A-1.

**C.** For an offshore wind energy project that is proposed within one nautical mile of an island within the unorganized or deorganized areas, the commission shall review the proposed project to determine whether the project qualifies as a community-based offshore wind energy project

and therefore is within the jurisdiction of the commission.

**D.** Except for a grid-scale wind energy project, the commission may require an applicant to provide a timely notice of filing prior to filing an application for, and may require the applicant to attend a public meeting during the review of, a wind energy development or a community-based offshore wind energy project. For projects or development located within the expedited permitting areas, the commission shall render its determination on an application for such a development or project within 185 days after the commission determines that the application is complete, except that the commission shall render such a decision within 270 days if it holds a hearing on the application. The chair of the Public Utilities Commission or the chair's designee shall serve as a non-voting member of the commission and may participate fully but is not required to attend hearings when the commission considers an application for a community-based offshore wind energy project. The chair's participation on the commission pursuant to this subsection does not affect the ability of the Public Utilities Commission to submit information into the record of the commission's proceedings.

**E.** At the request of an applicant, the commission may stop the processing time for a period of time agreeable to the commission and the applicant. The expedited review period specified in paragraph D does not apply to the associated facilities, as defined in Title 35-A, section 3451, subsection 1, of the wind energy development or community-based offshore wind energy project if the commission determines that an expedited review time is unreasonable due to the size, location, potential impacts, multiple agency jurisdiction or complexity of that portion of the development or project.

**Sec. 18. 12 MRSA §685-B, sub-§3-A**, as enacted by PL 1999, c. 333, §15, is amended to read:

**3-A. Hearings and procedures.** Hearings and procedures in connection with the review and approval of a permit application are subject to this subsection. To the extent practicable, hearings held under this subsection must be held at a location in close proximity to the project or projects under review.

**A.** The commission may determine on its own motion to hold a hearing on the application.

**B.** If the commission determines to act upon a permit application without a hearing, the commission, within 90 days after receiving the complete application, shall make findings of fact and issue an order either granting approval, subject to reasonable terms and conditions that the commission determines appropriate in order to fulfill the re-

quirements and intent of this chapter, the comprehensive land use plan and the commission's standards, or denying approval of the application as proposed.

C. Any person aggrieved by a decision of the commission or its staff concerning any permit application upon which no hearing was held may, within 30 days of that decision, petition the commission for a hearing. The commission is not required to hold a hearing, but shall respond within 45 days of receipt of the petition by notifying the petitioner in writing of the date, time and place set for the requested hearing or of the denial of the request.

D. Within 60 days after the commission adjourns any hearing held under this subsection, it shall make findings of fact and issue an order either granting approval, subject to reasonable terms and conditions that the commission determines appropriate in order to fulfill the requirements and intent of this chapter, the comprehensive land use plan and the commission's standards, or denying approval of the application as proposed.

**Sec. 19. 12 MRSA §685-B, sub-§4,** as amended by PL 2009, c. 615, Pt. D, §4, is further amended to read:

**4. Criteria for approval.** In approving applications submitted to it pursuant to this section, the commission may impose such reasonable terms and conditions as the commission may consider appropriate. In making a decision under this subsection regarding an application for a community-based offshore wind energy project, the commission may not consider whether the project meets the specific criteria designated in section 1862, subsection 2, paragraph A, subparagraph (6), divisions (a) to (d). This limitation is not intended to restrict the commission's review of related potential impacts of the project as determined by the commission.

The commission may not approve an application, unless:

A. Adequate technical and financial provision has been made for complying with the requirements of the State's air and water pollution control and other environmental laws, and those standards and regulations adopted with respect thereto, including without limitation the minimum lot size laws, sections 4807 to 4807-G, the site location of development laws, Title 38, sections 481 to 490, and the natural resource protection laws, Title 38, sections 480-A to 480-Z, and adequate provision has been made for solid waste and sewage disposal, for controlling of offensive odors and for the securing and maintenance of sufficient healthful water supplies;

B. Adequate provision has been made for loading, parking and circulation of land, air and water traffic; in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods;

C. Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to ensure there will be no undue adverse effect on existing uses, scenic character and natural and historic resources in the area likely to be affected by the proposal. In making a determination under this paragraph regarding development to facilitate withdrawal of groundwater, the commission shall consider the effects of the proposed withdrawal on waters of the State, as defined by Title 38, section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal. In making findings under this paragraph, the commission shall consider both the direct effects of the proposed withdrawal and its effects in combination with existing water withdrawals.

In making a determination under this paragraph regarding ~~an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4,~~ or a community-based offshore wind energy project, the commission shall consider the ~~development's or project's~~ effects on scenic character and existing uses related to scenic character in accordance with Title 35-A, section 3452.

In making a determination under this paragraph regarding a wind energy development, as defined in Title 35-A, section 3451, subsection 11, that is not a grid-scale wind energy development, that has a generating capacity of 100 kilowatts or greater and that is proposed for location within the expedited permitting area, the commission shall consider the development's or project's effects on scenic character and existing uses relating to scenic character in the manner provided for in Title 35-A, section 3452;

C-1. With respect to a wind energy development that has a generating capacity of 100 kilowatts or greater, the person proposing the development has received certification from the Department of Environmental Protection in the manner provided under Title 35-A, section 3456;

D. The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water and suitable soils are available for a sewage disposal system if sewage is to be disposed on-site;

E. The proposal is otherwise in conformance with this chapter and the regulations, standards and plans adopted pursuant thereto; and

F. In the case of an application for a structure upon any lot in a subdivision, that the subdivision has received the approval of the commission.

The burden is upon the applicant to demonstrate by substantial evidence that the criteria for approval are satisfied, and that the public's health, safety and general welfare will be adequately protected. ~~Except as otherwise provided in Title 35-A, section 3454, the~~ The commission shall permit the applicant and other parties to provide evidence on the economic benefits of the proposal as well as the impact of the proposal on energy resources.

**Sec. 20. 12 MRSA §685-B, sub-§4-B,** as amended by PL 2009, c. 615, Pt. D, §5, is further amended to read:

**4-B. Special provisions; community-based offshore wind energy project.** In the case of ~~a wind energy development, as defined in Title 35-A, section 3451, subsection 11, with a generating capacity greater than 100 kilowatts, or a community-based offshore~~ wind energy project, the developer must demonstrate, in addition to requirements under subsection 4, that the proposed generating facilities, as defined in Title 35-A, section 3451, subsection 5:

A. Will meet the requirements of the Board of Environmental Protection's noise control rules adopted pursuant to Title 38, chapter 3, subchapter 1, article 6;

B. Will be designed and sited to avoid undue adverse shadow flicker effects; and

C. Will be constructed with setbacks adequate to protect public safety, as provided in Title 35-A, section 3455. In making findings pursuant to this paragraph, the commission shall consider the recommendation of a professional, licensed civil engineer as well as any applicable setback recommended by a manufacturer of the generating facilities; and

D. Will provide significant tangible benefits, as defined in Title 35-A, section 3451, subsection 10, ~~within the State, as provided in Title 35-A, section 3454, if the development is an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4.~~

**Sec. 21. 12 MRSA §685-C, sub-§1,** as amended by PL 2009, c. 375, §1, is further amended to read:

**1. Comprehensive land use plan.** The commission shall ~~adopt~~ prepare an official comprehensive land use plan, referred to in this subsection as "the

plan," for the unorganized and deorganized ~~townships~~ areas of the State.

The commission must use the plan as a guide in developing specific land use standards and delineating district boundaries and guiding development and generally fulfilling the purposes of this chapter.

The plan may consist of maps, data and statements of present and prospective resource uses that generally delineate the proper use of resources, and recommendations for its implementation.

The commission shall hold public hearings to collect information to be used in establishing the ~~land use~~ guidance plan. The public hearings must be conducted according to commission rules adopted in accordance with procedures for the establishment of rules pursuant to Title 5, chapter 375, subchapter 2.

The commission may, on its own motion or petition of any state agency or regional planning commission, hold such other hearings as the commission considers necessary from time to time for the purpose of obtaining information helpful in the determination of its policies, the carrying out of its duties or the formulation of its land use standards or rules.

~~The commission may not adopt a plan or portion of a plan unless:~~

~~A. The tentative plan has been submitted to each regional planning commission and other appropriate agencies, which shall forward their comments and recommendations, if any, to the commission within 30 days; may not finalize a plan or a portion of a plan without:~~

(1) Submitting the tentative plan to each regional planning commission and other appropriate agencies, which shall forward their comments and recommendations, if any, to the commission within 30 days;

(2) Submitting the tentative plan to the State Planning Office or its successor, pursuant to Title 5, section 3305, subsection 1, paragraph G, which shall forward its comments and recommendations, if any, to the commission within 30 days;

(3) Considering all comments submitted under paragraphs A and B; and

(4) Submitting the tentative plan to the joint standing committee of the Legislature having jurisdiction over conservation matters and the committee reviewing the plan at a public meeting. The commission shall brief the committee on any anticipated changes to land use districts and subdistricts based on revisions in the comprehensive land use plan and a projected timetable for rulemaking to adopt these changes.

~~B. The tentative After the commission has finalized a plan has been submitted to the State Planning Office, pursuant to Title 5, section 3305, subsection 1, paragraph G, which shall forward its or a portion of a plan, but prior to adoption, the commission shall provide a copy to the Commissioner of Conservation, who shall submit the finalized plan or a portion of the plan to the Governor for comments and recommendations, if any, to. The commissioner shall submit the finalized plan or a portion of the plan including the Governor's comments to the Legislature within 30 days after the convening of the next regular session for approval. The Legislature shall, by act or resolve, approve, disapprove or require changes to the plan or any portion of the plan prior to adjournment. If the plan or a portion of the plan is approved or the Legislature fails to act on the plan or a portion of the plan before adjournment, the plan or a portion of the plan may be finally adopted by the commission within 30 days. If the plan or a portion of the plan is disapproved or revisions are required, the plan or a portion of the plan must be revised by the commission and resubmitted to the Legislature for approval by act or resolve. The joint standing committee of the Legislature having jurisdiction over conservation matters may submit legislation to implement the provisions of this paragraph.~~

~~C. The commission has considered all comments submitted under paragraphs A and B; and~~

~~D. The commission has submitted the tentative plan to the joint standing committee of the Legislature having jurisdiction over conservation matters and the committee has reviewed the plan at a public meeting. The commission shall brief the committee on any anticipated changes to land use districts and subdistricts based on revisions in the comprehensive land use plan and a projected timetable for rulemaking to adopt these changes. The tentative plan must be submitted to the committee a minimum of 30 days prior to the commission's final vote.~~

~~Upon adoption of the official land use plan by the commission, the commission shall submit the plan to the Governor for approval. The Governor shall approve or disapprove the plan, plans or any portion of a plan within 30 days of receipt. If the Governor fails to act, the plan is deemed approved. This subsection also applies to any alteration in the comprehensive plan.~~

~~Sec. 22. 12 MRSA §685-C, sub-§1-A is enacted to read:~~

~~**1-A. Regional comprehensive land use plans.** A county, separately or in partnership with another county or counties, may request the commission to develop and implement a regional comprehensive land use plan and associated zoning for all or a portion of~~

the territory within the jurisdiction of the commission in the county or counties making the request. If the commission provides assistance under this subsection, it shall:

A. Consult with regional economic development organizations and regional planning and development districts described in Title 30-A, chapter 119;

B. Seek input from representatives of service center communities as defined in Title 30-A, section 4301, subsection 14-A and neighboring municipalities in the area for which assistance is requested; and

C. Provide for involvement by members of the public, landowners in the unorganized and deorganized areas of the State and residents of the unorganized and deorganized areas of the State.

**Sec. 23. 12 MRSA §685-F, sub-§1, as amended by PL 2009, c. 492, §3, is further amended to read:**

**1. Designation as extraordinary project.** The director of the Maine Land Use ~~Regulation~~ Planning Commission, referred to in this section as "the director," may designate a proposed project requiring review and approval under this chapter as an extraordinary project when the director determines that ~~the project is a wind energy development, as defined in Title 35-A, section 3451, subsection 11 or,~~ because of the project's size, uniqueness or complexity, review of the project application is likely to:

A. Significantly impair the capacity of the commission's staff and cooperating state agencies to review other applications in a timely manner; or

B. Require the commission to incur costs that exceed the funding provided in accordance with section 685-G.

A project is considered to significantly impair the capacity of the commission's staff if review of that project is likely to occupy the equivalent of at least one person working full-time on that project for a minimum of 4 months. Designation as an extraordinary project must be made at or prior to the time the application is accepted as complete. The director shall notify the applicant in writing upon making the designation.

**Sec. 24. 12 MRSA §685-H is enacted to read:**

**§685-H. Annual performance report**

**1. Report due.** By January 15, 2013 and by January 15th annually thereafter, the commission shall report to the joint standing committee of the Legislature having jurisdiction over conservation matters regarding the commission's performance under this subchapter for the previous year and goals for the coming year.

**2. Report components.** The report must include:

A. The number of permits processed for the previous calendar year, by category;

B. A summary of preapplication consultation activities;

C. The average time for rendering a decision, with goals for improving processing times;

D. The status of regional planning and zoning initiatives, with goals for the calendar year; and

E. A description of staff and commission training initiatives to ensure increased customer service and consistency in application of commission rules and regulations, with goals for the calendar year ahead.

**3. Public meeting.** The chair of the commission shall present the annual performance report to the joint standing committee of the Legislature having jurisdiction over conservation matters at a meeting of that committee. The committee shall give the public an opportunity to comment on the performance report at this meeting.

**Sec. 25. 12 MRSA §689**, as amended by PL 2009, c. 642, Pt. B, §1, is further amended to read:

**§689. Appeal**

Persons aggrieved by final actions of the commission, including without limitation any final decision of the commission with respect to any application for approval or the adoption by the commission of any district boundary or amendment thereto, may appeal therefrom in accordance with Title 5, chapter 375, subchapter 7. ~~Appeals of final actions of the commission regarding an application for an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4, must be taken to the Supreme Judicial Court sitting as the Law Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. The Law Court has exclusive jurisdiction over requests for judicial review of final actions of the commission regarding expedited wind energy developments. This right of appeal, with respect to any commission action to which this right may apply, shall be is in lieu of the rights provided under Title 5, section 8058, subsection 1.~~

**Sec. 26. 35-A MRSA §3451, sub-§8**, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

**8. Primary siting authority.** "Primary siting authority" means:

A. The department, in the case of an expedited wind energy development subject to the department's jurisdiction pursuant to Title 38, chapter 3, subchapter 1, article 6, including, but not limited

to, a development subject to the department's jurisdiction pursuant to Title 38, section 488, subsection ~~9-9-A~~; or

B. The Maine Land Use ~~Regulation Planning~~ Commission, in the case of ~~an expedited wind energy development subject to the Maine Land Use Regulation Commission's jurisdiction pursuant to Title 12, chapter 206-A a community-based offshore wind energy project as defined in Title 12, section 682, subsection 19 and a wind energy development in the unorganized and deorganized areas as defined in Title 12, section 682, subsection 1 that is not grid-scale wind energy development.~~

**Sec. 27. 35-A MRSA §3454, first ¶**, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

In making findings pursuant to ~~Title 12, section 685-B, subsection 4 or~~ Title 38, section 484, subsection 3, the primary siting authority shall presume that an expedited wind energy development provides energy and emissions-related benefits described in section 3402 and shall make additional findings regarding other tangible benefits provided by the development. The Department of Labor, the Executive Department, State Planning Office and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.

**Sec. 28. 35-A MRSA §3454, sub-§2**, as enacted by PL 2009, c. 642, Pt. A, §7, is amended to read:

**2. Community benefits package requirement.**

Except as provided in subsection 3, to demonstrate that an expedited wind energy development provides significant tangible benefits as required in ~~Title 12, section 685-B, subsection 4-B and~~ Title 38, section 484, subsection 10, the applicant for an expedited wind energy development is required to establish a community benefits package valued at no less than \$4,000 per year per wind turbine included in the expedited wind energy development, averaged over a 20-year period. This subsection does not affect the property tax obligations of an expedited wind energy development.

**Sec. 29. 35-A MRSA §3456, sub-§1**, as enacted by PL 2007, c. 661, Pt. A, §7, is amended to read:

**1. Construction and operation requirements.**

A person may not construct or operate a wind energy development, other than a grid-scale wind energy development, ~~that is located in the State's organized area~~ without first obtaining a certification from the department that the generating facilities:

A. Will meet the requirements of the noise control rules adopted by the Board of Environmental

Protection pursuant to Title 38, chapter 3, subchapter 1, article 6;

B. Will be designed and sited to avoid unreasonable adverse shadow flicker effects; and

C. Will be constructed with setbacks adequate to protect public safety. In making a finding pursuant to this paragraph, the department shall consider the recommendation of a professional, licensed civil engineer as well as any applicable setback recommended by a manufacturer of the generating facilities.

A person proposing a wind energy development subject to certification under this section shall apply to the department for certification using an application provided by the department and may not begin construction until the certification is received.

**Sec. 30. 38 MRSA §480-E-1, sub-§4** is enacted to read:

**4. Projects reviewed under site location of development laws.** The department issues all permits required under this article for projects wholly or in part in the jurisdiction of the Maine Land Use Planning Commission that are subject to review and permitting under article 6.

**Sec. 31. 38 MRSA §488, sub-§9**, as amended by PL 2009, c. 615, Pt. E, §19, is repealed.

**Sec. 32. 38 MRSA §488, sub-§9-A** is enacted to read:

**9-A. Development within unorganized areas.** Except for development described in paragraphs A, B and C, development located within the unorganized and deorganized areas, as defined in Title 12, section 682, subsection 1, is subject to review by the department for compliance with this article. The department shall review development within the unorganized and deorganized areas in accordance with section 489-A-1.

**A.** A community-based offshore wind energy project, as defined in Title 12, section 682, subsection 19, is reviewed under Title 12, section 685-B, subsection 2-C and is exempt from the requirements of this article.

**B.** Except for grid-scale wind energy development, development within a planned subdistrict as defined in Title 12, section 682, subsection 20 and approved or accepted for processing prior to September 1, 2012 is reviewed by the commission and is exempt from the requirements of this article.

**C.** An amendment or revision to a development approved by the Maine Land Use Regulation Commission prior to September 1, 2012 is exempt from review under this article unless the proposed revision by itself is a development of state or re-

gional significance that may substantially affect the environment.

Subdivision plans approved and orders issued by the department under this article must be recorded in the registry of deeds in the county in which the development is located within 90 days.

Violation and enforcement provisions in chapter 2, subchapter 1 apply to development reviewed by the department under this subsection.

**Sec. 33. 38 MRSA §489-A-1** is enacted to read:

**§489-A-1. Department review of development within the unorganized and deorganized areas**

**1. Review.** Except as provided in section 488, subsection 9-A, paragraphs A, B and C, the department shall review development within the unorganized and deorganized areas as defined in Title 12, section 682, subsection 1.

**2. Criteria for approval.** The department shall approve a development proposal under this section if:

**A.** The proposed development is an allowed use within the subdistrict or subdistricts in which it is to be located. Subdistricts and allowed uses are established in rule by the Maine Land Use Planning Commission in accordance with Title 12, section 685-A;

**B.** The standards established under section 484 are met;

**C.** The standards established in rules adopted under section 489-E to implement this section are met; and

**D.** The Maine Land Use Planning Commission has certified that the proposed development meets any land use standard established by the commission and applicable to the project that is not considered in the department's review under subsection 1.

For a development or part of a development within the unorganized or deorganized areas as defined in Title 12, section 682, subsection 1, the department may request and obtain technical assistance and recommendations from the Maine Land Use Planning Commission. The commission shall respond to the requests within 90 days. The department shall consider the recommendations of the commission in acting upon a development application.

Violation and enforcement provisions in chapter 2, subchapter 1 apply to development reviewed by the department under this section.

**Sec. 34. Directive to initiate prospective zoning.** The Maine Land Use Planning Commission shall initiate prospective zoning in the unorganized

and deorganized areas of the State. The commission shall allocate staff resources to prospective zoning in areas prioritized by the commission and shall coordinate prospective zoning in cooperation with efforts of local planning organizations and regional planning and development districts. In the 2013 annual report submitted under the Maine Revised Statutes, Title 12, section 685-H, the commission shall identify the area or areas for which prospective zoning has begun and provide a timeline for completion of these initiatives.

**Sec. 35. Directive to provide opportunities for preapplication discussions.** The Maine Land Use Planning Commission shall establish a process by which an applicant can request a public preapplication meeting with the commissioners to discuss a proposed project.

**Sec. 36. Designation of planned subdistricts.** The term "planned subdistrict" as defined in the Maine Revised Statutes, Title 12, section 682, subsection 20 and used in Title 12, chapter 206-A includes, but is not limited to, the following concept plans, resources protection plans and planned development districts approved or accepted for processing by the Maine Land Use Regulation Commission as of March 16, 2012:

**Planned subdistricts in Maine Land Use Regulation Commission jurisdiction as of March 16, 2012: Includes Resource Protection Plans (P-RP), Concept Plans (P-RP), and Planned Development Subdistricts (D-PD). Plan and permit numbers are provided.**

Project	P-RP Resource Protection Plan	P-RP Concept Plan	D-PD Planned Development Subdistrict
Dix Island Resource Plan (Multiple landowners)	Plan #001 ZP 089		
Hewett Island Resource Plan (Multiple landowners)	Plan #002 ZP 057		
St. John River Resource Plan (Multiple landowners)	Plan #004 ZP 224		
White Mountain National Forest Resource Plan (U.S. Forest Service)	Plan #005 ZP 155		

Metinic Island Resource Plan - North Half (Multiple landowners)	Plan #006 ZP 531		
Attean Twp. and Dennistown Plt. Concept Plan (Lowell & Co. Timber Associates)		Plan #007 ZP 532	
Metinic Island Resource Plan - South Half (Multiple landowners)	Plan #008 ZP 578		
First Roach Pond Concept Plan (Plum Creek Land Co.)		Plan #009 ZP 659	
Penobscot River Resource Plan - Lower West Branch (Multiple landowners)	Plan #011 ZP 671		
Brassua Lake Concept Plan (Moosehead Wildlands, Inc.)		Plan #012 ZP 682	
Foss Pond, Hilton Ponds and portions of Whetstone Pond Concept Plan (Kingsbury Plt.) (Linkletter & Sons, Inc.)		Plan #013 ZP 693	
Moosehead Lake Region Concept Plan (Plum Creek Maine Timberlands, LLC and Plum Creek Land Co.)		Plan #014 ZP 707	
Kibby Wind Power Project (TransCanada Maine Wind Development, Inc.)			ZP 709 DP 4794
Stetson Wind Power Project (Evergreen Wind Power V, LLC/First Wind)			ZP 713 DP 4788

Saddleback Ski  
Resort (Saddleback  
Land & Timber  
Corp.)

ZP 372  
DP 4131

**Sec. 37. Transition provisions.** The following provisions govern the transition of the Maine Land Use Regulation Commission to the Maine Land Use Planning Commission.

1. The members of the Maine Land Use Regulation Commission serving on the effective date of this Act continue as members of the Maine Land Use Planning Commission until the expiration of their terms under the Maine Revised Statutes, former Title 12, section 683. The term of any member that expires after the effective date of this Act but before December 15, 2012 is extended until December 15, 2012. To implement the difference in the number of members of the Maine Land Use Regulation Commission and the Maine Land Use Planning Commission, beginning December 15, 2012, 2 additional members must be nominated under Title 12, section 683-A from the 2 counties with the highest acreage of unorganized and deorganized areas. When the term of a member serving on the commission under former Title 12, section 683 expires, a member must be nominated from the county with the next highest acreage of unorganized and deorganized areas until all 6 county nominations have been completed. When all county positions have been nominated, the next vacancy must be filled by the nomination of the member nominated by the Governor. Notwithstanding Title 12, section 684, until 9 members have been confirmed as members of the commission, a quorum of the commission for the transaction of business is 4 and no action may be taken by the commission unless approved by a vote of 4 members.

2. The Maine Land Use Planning Commission is the successor in every way to the powers, duties and functions of the former Maine Land Use Regulation Commission as provided in this Act.

3. All existing rules, regulations and procedures in effect, in operation or adopted in or by the former Maine Land Use Regulation Commission or any of its administrative units or officers and all permits, approvals and decisions of the former Maine Land Use Regulation Commission are hereby declared in effect and continue in effect until rescinded, revised or amended by the proper authority.

4. All existing contracts, agreements and compacts currently in effect involving the former Maine Land Use Regulation Commission continue in effect.

5. Any positions authorized and allocated subject to the personnel laws of the former Maine Land Use Regulation Commission are transferred to the Maine Land Use Planning Commission and may continue to be authorized.

6. All records, property and equipment previously belonging to or allocated for the use of the former Maine Land Use Regulation Commission become on the effective date of this Act the records, property and equipment of the Maine Land Use Planning Commission. The Maine Land Use Planning Commission shall transfer records received from the former Maine Land Use Regulation Commission or provide copies of those records to the Department of Environmental Protection upon the request of the department as necessary to implement the provisions of this Act transferring authority to the department for permitting and regulation under the site location of development laws under Title 38, chapter 3, subchapter 1, article 6 or expedited permitting of grid-scale wind energy development under Title 35-A, chapter 34-A.

7. All existing forms, licenses, permits, letter-heads and similar items bearing the name of or referring to the "Maine Land Use Regulation Commission" may be used by the Maine Land Use Planning Commission until existing items are exhausted.

8. The Department of Environmental Protection shall adopt rules necessary to review applications for development under Title 38, section 489-A-1. These rules must be adopted no later than January 1, 2013. In reviewing development under Title 38, section 489-A-1 prior to final adoption of the department's rules, the department shall use standards established in Title 12, chapter 206-A and rules adopted under that chapter as those rules apply in the area proposed for development. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 38. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "Maine Land Use Regulation Commission" appear or reference is made to that entity or those words, those words are amended to read or mean, as appropriate, "Maine Land Use Planning Commission" or "commission," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. 39. Appropriations and allocations.** The following appropriations and allocations are made.

**CONSERVATION, DEPARTMENT OF  
Land Use Regulation Commission 0236**

Initiative: Transfers one Environmental Specialist III position from the Land Use Regulation Commission program in the Department of Conservation to the Land and Water Quality program in the Department of Environmental Protection effective September 1, 2012. Also transfers All Other related to these positions.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	\$0	(\$40,866)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$40,866)</b>

**Office of the Commissioner 0222**

Initiative: Transfers one Environmental Specialist III position from the Land Use Regulation Commission program in the Department of Conservation to the Land and Water Quality program in the Department of Environmental Protection effective September 1, 2012. Also transfers All Other related to these positions.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$968)
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$968)</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	(\$171)
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$171)</b>

<b>CONSERVATION, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	(\$41,834)
OTHER SPECIAL REVENUE FUNDS	\$0	(\$171)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$42,005)</b>

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

**Administration - Environmental Protection 0251**

Initiative: Transfers one Environmental Specialist III position from the Land Use Regulation Commission program in the Department of Conservation to the Land and Water Quality program in the Department of Environmental Protection effective September 1, 2012. Also transfers All Other related to these positions.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
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All Other	\$0	\$509
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$509</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$402
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$402</b>

**Land and Water Quality 0248**

Initiative: Transfers one Environmental Specialist III position from the Land Use Regulation Commission program in the Department of Conservation to the Land and Water Quality program in the Department of Environmental Protection effective September 1, 2012. Also transfers All Other related to these positions.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$40,693
All Other	\$0	\$459
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$41,152</b>

<b>ENVIRONMENTAL PROTECTION, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	\$41,661
OTHER SPECIAL REVENUE FUNDS	\$0	\$402
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$42,063</b>

<b>SECTION TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	(\$173)
OTHER SPECIAL REVENUE FUNDS	\$0	\$231
<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$58</b>

**Sec. 40. Effective date.** Those sections of this Act that repeal the Maine Revised Statutes, Title 38, section 488, subsection 9 and enact Title 38, section 480-E-1, subsection 4, Title 38, section 488, subsection 9-A and Title 38, section 489-A-1 take effect September 1, 2012.

See title page for effective date, unless otherwise indicated.

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**CHAPTER 683**  
**S.P. 637 - L.D. 1839**

**An Act To Define Cost  
Responsibility for Deaf and  
Hard-of-hearing Students  
Receiving Services from the  
Maine Educational Center for  
the Deaf and Hard of Hearing  
and the Governor Baxter  
School for the Deaf**

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

**Sec. 1. 20-A MRSA §7402**, as amended by PL 2005, c. 279, §7, is further amended to read:

**§7402. Definitions**

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

**1. School.** "School" means the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf established under this chapter, including the center school located at Mackworth Island known as the Governor Baxter School for the Deaf, the center preschool and any satellite school within the State that may be operated under a contracted services agreement.

**2. School board.** "School board" means the School Board of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf.

**3. Sending school.** "Sending school" means any school administrative unit that has a student in attendance at the center school or at a satellite school.

**4. Executive director.** "~~Superintendent~~" "Executive director" means the ~~Superintendent~~ Executive Director of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf.

**5. Center school.** "Center school" means the kindergarten to grade 12 ~~day and residential~~ programs established and operated by the Maine Educational Center for the Deaf and Hard of Hearing and the Gov-

ernor Baxter School for the Deaf at the Governor Baxter School for the Deaf located at Mackworth Island or at a location determined by the school board in accordance with section 7407, subsection 17.

**6. Satellite school.** "Satellite school" means the programs, including a residential program, day school programs, early childhood programs and outreach programs, that are located near the population centers of deaf and hard-of-hearing students within the State established by the School Board of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf.

**7. Statewide educational services or outreach.** "Statewide educational services" or "outreach" means consultation services provided to families of children from birth to 5 years of age who are deaf or hard-of-hearing students; and consulting services to school administrative units that serve school-age deaf or hard-of-hearing children and services provided through the parent infant toddler program, the preschool program and the communication garden program provided at the center school.

**8. Statewide resource center.** "Statewide resource center" means the information and referral services provided by the library at the center school and the distance education program and the community education program offered at the center school.

**9. Center preschool.** "Center preschool" means the preschool program established and operated by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf at the Governor Baxter School for the Deaf.

**Sec. 2. 20-A MRSA §7403**, as amended by PL 1999, c. 775, §4, is further amended to read:

**§7403. Responsibility; location; geographic access**

The center school is responsible for providing a free, appropriate public education to students enrolled pursuant to chapter 301. The center school programs are operated by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf located on Mackworth Island or at a location determined by the school board in accordance with section 7407, subsection 17. Satellite school programs, including a residential program in accordance with section 7407, subsection 17, may be located near the population centers of deaf and hard-of-hearing students within the State.

**Sec. 3. 20-A MRSA §7404, sub-§1**, as amended by PL 2007, c. 111, §2, is further amended to read:

**1. Funding.** Students from this State may attend the center school free of tuition and room and board expense. Funding for these students is provided by legislative appropriation based on the services necessary, including room and board, to satisfy the indi-

vidualized education programs of the students enrolled in the center school. Funding must support maintenance of the center school and that portion of the island used by the center school, security, outreach services, adult education, access to the education network of Maine and operations of the center school, including the residential program, parent-infant program, preschool program and communication garden program. Funding must also support maintenance and operations of any satellite school.

**Sec. 4. 20-A MRSA §7405, sub-§1**, as amended by PL 2003, c. 533, §7, is further amended to read:

**1. Enrollment.** The superintendent of the school administrative unit in which a deaf or hard-of-hearing student resides, with the consent of that student's parent or legal guardian and in accordance with the limitations in section 5051-A, may enroll that student in the center school or in one of the center school programs or the satellite school programs. The For students enrolled in the center school, the sums necessary for to ensure that services required to meet the individualized education program for each student, including tuition and room and board of the student while attending one of the center school programs or satellite school programs, as determined by the individualized education program of the student, must be paid by the school board. Beginning July 1, 2013, the sums necessary to provide transportation services for a student enrolled in the center school, as determined by the individualized education program of the student, must be paid by the school board.

**Sec. 5. 20-A MRSA §7405, sub-§2**, as amended by PL 1999, c. 775, §6, is further amended to read:

**2. State and federal educational services requirements.** The center school, center preschool and any satellite school must comply with all standards for state public schools and must comply with all federal and state laws and department rules for the provision of educational services to children with disabilities.

**Sec. 6. 20-A MRSA §7407, sub-§2**, as amended by PL 1995, c. 676, §5 and affected by §13, is amended to read:

**2. Selection of executive director.** The school board shall hire ~~a superintendent~~ an executive director.

**Sec. 7. 20-A MRSA §7407, sub-§4-A**, as amended by PL 2005, c. 279, §9, is further amended to read:

**4-A. Budget development.** The school board shall, with the aid of the ~~superintendent~~ executive director and staff, prepare an annual budget for the operation of the school and exercise budgetary responsibility. The school board shall allocate for expenditure

by the school and programs under its jurisdiction all the resources available for the operation of the school and its programs. ~~Annually, not later than January 1st, beginning for fiscal year 2001-02, in addition to complying with the provisions of Title 5, sections 1665 and 1666, the school board shall present the administrative operating budget for the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to the Governor and the Legislature for review by the joint standing committee of the Legislature having jurisdiction over education matters. The administrative operating budget must be presented as a line item budget for each of the programs under its jurisdiction. A liability or obligation may not be incurred under this chapter beyond the amount approved in the administrative operating budget. The school board may make expenditures only in accordance with allocations approved by the Legislature. Any balance of an allocation or subdivision of an allocation made by the Legislature for the school that at the time is not required for the purpose named in the allocation or subdivision may be transferred prior to the closing of the books for the fiscal year to any other allocation or subdivision of any allocation made by the Legislature for the use of the school for the same fiscal year. The transfer is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Financial statements describing the transfer must be submitted by the school board to the Office of Fiscal and Program Review 30 days before the transfer is implemented. In case of extraordinary emergency transfers, the 30 day prior submission requirement may be waived by vote of the committee. These financial statements must include information specifying the accounts that are affected, the amounts to be transferred, a description of the transfer and a detailed explanation of the reason the transfer is needed. The school board shall also provide an annual justification for the finances and operations of the programs under the jurisdiction of the school to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over education matters. The justification for the finances and operations of the school must be presented as a line item budget for each of the programs under its jurisdiction.~~

**Sec. 8. 20-A MRSA §7407, sub-§4-B** is enacted to read:

**4-B. Budget presentation.** Annually, not later than January 1st, in addition to complying with the provisions of Title 5, sections 1665 and 1666, the school board shall present the budget for the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to the

Governor and the Legislature for review by the commissioner and the joint standing committee of the Legislature having jurisdiction over education matters. Beginning for fiscal year 2013-14, the budget must be presented in a cost center summary budget format pursuant to section 1485, subsection 1, paragraph A and must include specific budget information, including revenues and expenditures, for the center school, the center preschool and statewide educational services or outreach. Revenue sources must include revenue received through state appropriation pursuant to section 7404, as well as fees and other revenues collected from school administrative units. The school board shall provide a detailed accounting of the fees and other revenue collected from each school administrative unit and the services provided to each unit. A liability or obligation may not be incurred under this chapter beyond the amount approved in the administrative operating budget. The school board may make expenditures only in accordance with allocations approved by the Legislature. Any balance of an allocation or subdivision of an allocation made by the Legislature for the school that at the time is not required for the purpose named in the allocation or subdivision may be transferred prior to the closing of the books for the fiscal year to any other allocation or subdivision of any allocation made by the Legislature for the use of the school for the same fiscal year. The transfer is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Financial statements describing the transfer must be submitted by the school board to the Office of Fiscal and Program Review 30 days before the transfer is implemented. In case of extraordinary emergency transfers, the 30-day prior submission requirement may be waived by vote of the committee. These financial statements must include information specifying the accounts that are affected, the amounts to be transferred, a description of the transfer and a detailed explanation of the reason the transfer is needed.

**Sec. 9. 20-A MRSA §7407, sub-§§14 and 18**, as enacted by PL 1995, c. 676, §5 and affected by §13, are amended to read:

**14. Criteria for enrollment.** The school board shall establish and disseminate to school administrative units the criteria to be used in determining eligibility of applicants for enrollment in the center school.

**18. Fees and charges.** The school board shall establish and collect necessary fees and set policies relating to other appropriate charges for students. The school board shall annually submit a schedule of fees to be charged to school administrative units for each service provided by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to the Governor. A detailed accounting of fees collected from each unit and the services provided, including statewide educational

services or outreach, must be included in the presentation of the budget pursuant to subsection 4-B.

**Sec. 10. 20-A MRSA §7408**, as enacted by PL 1995, c. 676, §5 and affected by §13, is amended to read:

**§7408. Powers and duties of executive director**

The powers and duties of the ~~superintendent~~ executive director include the following.

**1. Staff and administration.** The ~~superintendent~~ executive director shall hire staff and administer school operations.

**2. Enrollment.** The ~~superintendent~~ executive director shall work with superintendents from other school administrative units, pursuant to section 7405, subsection 1, to enroll students.

**Sec. 11. Implementation; report.** The Commissioner of Education and the Executive Director of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf shall provide a joint report by February 15, 2013 to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs on the implementation of the provisions of this Act. The report must include, but is not limited to:

1. The criteria for enrollment established by the school board of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to clarify the enrollment status of students attending the center preschool, the center school or a satellite school that is operated by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf;

2. The projected fiscal impact for fiscal year 2013-14, including the projected cost center summary budget to be proposed for transportation pursuant to the Maine Revised Statutes, Title 20-A, section 1485, subsection 1, paragraph A, to implement the requirement set forth in Title 20-A, section 7405, subsection 1 that the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf is responsible for the costs of providing transportation services for students enrolled in the center school or a satellite school;

3. The technical assistance and guidance provided by the Department of Education or other state agencies to the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf and to school administrative units that send students to attend the center preschool, the center school or a satellite school regarding implementation of this Act; and

4. Findings and recommendations, including any necessary changes to Title 20-A, chapter 304 or other applicable statutes or Department of Education rules,

that clarify the procedural and financial responsibilities of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf and school administrative units that send students to attend the center preschool, the center school or a satellite school.

The joint standing committee of the Legislature having jurisdiction over education and cultural affairs may submit a bill related to the report presented pursuant to this section to the First Regular Session of the 126th Legislature.

See title page for effective date.

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## CHAPTER 684

### H.P. 1333 - L.D. 1809

#### **An Act To Apply the Sales Tax on Camper Trailers and Motor Homes Purchased for Rental in the Same Manner as on Automobiles Purchased for Rental**

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

**Sec. 1. 36 MRSA §1752, sub-§11, ¶B,** as amended by PL 2011, c. 209, §1 and affected by §5, is further amended to read:

B. "Retail sale" does not include:

- (1) Any casual sale;
- (2) Any sale by a personal representative in the settlement of an estate unless the sale is made through a retailer or the sale is made in the continuation or operation of a business;
- (3) The sale, to a person engaged in the business of renting automobiles, of automobiles, integral parts of automobiles or accessories to automobiles, for rental or for use in an automobile rented for a period of less than one year. For the purposes of this subparagraph, "automobile" includes a pickup truck or van with a gross vehicle weight of less than 26,000 pounds;
- (4) The sale, to a person engaged in the business of renting video media and video equipment, of video media or video equipment for rental;
- (5) The sale, to a person engaged in the business of renting or leasing automobiles, of automobiles for rental or lease for one year or more;
- (6) The sale, to a person engaged in the business of providing cable or satellite television

services, of associated equipment for rental or lease to subscribers in conjunction with a sale of extended cable or extended satellite television services;

(7) The sale, to a person engaged in the business of renting furniture or audio media and audio equipment, of furniture, audio media or audio equipment for rental pursuant to a rental-purchase agreement as defined in Title 9-A, section 11-105;

(8) The sale of loaner vehicles to a new vehicle dealer licensed as such pursuant to Title 29-A, section 953;

(9) The sale of automobile repair parts used in the performance of repair services on an automobile pursuant to an extended service contract sold on or after September 20, 2007 that entitles the purchaser to specific benefits in the service of the automobile for a specific duration;

(10) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of tangible personal property for resale in the form of tangible personal property, except resale as a casual sale;

(11) The sale, to a retailer that has been issued a resale certificate pursuant to section 1754-B, subsection 2-B or 2-C, of a taxable service for resale, except resale as a casual sale;

(12) The sale, to a retailer that is not required to register under section 1754-B, of tangible personal property for resale outside the State in the form of tangible personal property, except resale as a casual sale;

(13) The sale, to a retailer that is not required to register under section 1754-B, of a taxable service for resale outside the State, except resale as a casual sale; ~~or~~

(14) The sale of repair parts used in the performance of repair services on telecommunications equipment as defined in section 2551, subsection 19 pursuant to an extended service contract that entitles the purchaser to specific benefits in the service of the telecommunications equipment for a specific duration; ~~or~~

(15) The sale, to a person engaged in the business of renting or leasing motor homes, as defined in Title 29-A, section 101, subsection 40, or camper trailers, of motor homes or camper trailers for rental.

**Sec. 2. 36 MRSA §1752, sub-§17-B**, as amended by PL 2011, c. 209, §2 and affected by §5, is further amended to read:

**17-B. Taxable service.** "Taxable service" means the rental of living quarters in a hotel, rooming house or tourist or trailer camp; the transmission and distribution of electricity; the rental or lease of an automobile, a camper trailer, or a motor home, as defined in Title 29-A, section 101, subsection 40; the rental or lease of a pickup truck or van with a gross vehicle weight of less than 26,000 pounds from a person primarily engaged in the business of renting automobiles; the sale of an extended service contract on an automobile that entitles the purchaser to specific benefits in the service of the automobile for a specific duration; and the sale of prepaid calling service.

**Sec. 3. Effective date.** This Act takes effect October 1, 2012.

Effective October 1, 2012.

**CHAPTER 685**

**H.P. 1347 - L.D. 1826**

**An Act To Revise the Income Tax Return Checkoffs**

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

**Sec. 1. 27 MRSA §8** is enacted to read:

**§8. Maine Public Library Fund**

There is established the Maine Public Library Fund, an interest-bearing account, referred to in this section as "the fund." The fund receives money deposited by the Treasurer of State pursuant to Title 36, section 5291 and any other money contributed to the fund. The fund is administered by the State Librarian. All money deposited in the fund and the earnings on that money remain in the fund to be used to provide grants to free public libraries for use in providing services identified as priority services by the State Librarian. Money in the fund may also be used for the necessary administrative and personnel costs associated with the management of the fund but may not be deposited in the General Fund or any other fund except as specifically provided by law.

**Sec. 2. 36 MRSA §5283**, as amended by PL 1989, c. 502, Pt. A, §137, is further amended by adding at the end a new paragraph to read:

This section is repealed December 31, 2012.

**Sec. 3. 36 MRSA §5283-A** is enacted to read:

**§5283-A. Voluntary contribution through checkoffs**

**1. Minimum threshold for total contributions.**

The State Tax Assessor may not include on an individual income tax return form a designation for a taxpayer to make a contribution through a checkoff under section 5284, 5284-A, 5285, 5285-A, 5288-A, 5289, 5290 or 5291 unless on returns filed in the prior calendar year the total contributions to the organization or fund to which the contributions are credited under the applicable section are at least:

- A. For calendar year 2012, \$10,000;
- B. For calendar year 2013, \$13,000;
- C. For calendar year 2014, \$16,000;
- D. For calendar year 2015, \$19,000;
- E. For calendar year 2016, \$22,000; and
- F. For calendar years beginning on or after January 1, 2017, \$25,000.

This subsection does not apply to a contribution checkoff that has been on the individual income tax form for less than one year.

**2. Cost of administration.** The State Tax Assessor shall determine annually the total amount contributed to each fund or organization by taxpayers making contributions through a checkoff on the individual income tax return form. Prior to the beginning of the next year, the assessor shall deduct the cost of administering the checkoff for the organization or fund and report the remainder to the Treasurer of State, who shall forward that amount to the designated organization or fund.

**Sec. 4. 36 MRSA §5284, sub-§2**, as amended by PL 2003, c. 414, Pt. B, §68 and affected by c. 614, §9, is further amended to read:

**2. Contributions credited to Maine Endangered and Nongame Wildlife Fund.** The State Tax Assessor shall determine annually the total amount contributed pursuant to subsection 1. Prior to the beginning of the next year, the assessor shall deduct the cost of administering the nongame checkoff, ~~but not exceeding \$5,000 annually,~~ and report the remainder to the Treasurer of State, who shall credit that amount to the Maine Endangered and Nongame Wildlife Fund, which is established in Title 12, section 10253.

**Sec. 5. 36 MRSA §5284-A, sub-§2**, as amended by PL 2003, c. 682, §5, is amended to read:

**2. Contributions credited to Companion Animal Sterilization Fund.** The State Tax Assessor shall determine annually the total amount contributed pursuant to subsection 1. Prior to the beginning of the next year, the assessor shall deduct the cost of administering the Companion Animal Sterilization Fund checkoff, ~~but not exceeding \$5,000 annually,~~ and re-

port the remainder to the Treasurer of State, who shall credit the amount to the Companion Animal Sterilization Fund, which is established in Title 7, section 3910-B.

**Sec. 6. 36 MRSA §5285, sub-§2**, as amended by PL 1993, c. 600, Pt. A, §280, is further amended to read:

**2. Contributions credited to the Maine Children's Trust Incorporated.** The State Tax Assessor shall determine annually the total amount contributed pursuant to subsection 1. Prior to the beginning of the next year, the State Tax Assessor shall deduct the cost of administering the Maine Children's Trust Incorporated checkoff, ~~but not exceeding \$2,000 annually~~, and report the remainder to the Treasurer of State, who shall forward that amount to the Maine Children's Trust Incorporated, which is established in Title 22, chapter 1058.

**Sec. 7. 36 MRSA §5285-A, sub-§2**, as amended by PL 2007, c. 240, Pt. TT, §2 and affected by §3, is further amended to read:

**2. Contributions credited to the Bone Marrow Screening Fund.** The State Tax Assessor shall determine annually the total amount contributed pursuant to subsection 1. Prior to the beginning of the next year, the State Tax Assessor shall deduct the cost of administering the Bone Marrow Screening Fund checkoff, ~~but not exceeding \$2,000 annually~~, and report the remainder to the Treasurer of State, who shall forward that amount to the Bone Marrow Screening Fund.

**Sec. 8. 36 MRSA §5288-A, sub-§1**, as enacted by PL 2007, c. 674, §1 and affected by §2, is amended to read:

**1. Maine Military Family Relief Fund.** When filing a return, a taxpayer entitled to a refund under this Part may designate that a portion of that refund be paid into the Maine Military Family Relief Fund established in Title 37-B, section 158. A taxpayer who is not entitled to a refund under this Part may contribute to the Maine Military Family Relief Fund by including with that taxpayer's return sufficient funds to make the contribution. The contribution may not be less than ~~\$1~~ \$5. Each individual income tax return form must contain a designation in substantially the following form: "The Maine Military Family Relief Fund: (→) ~~\$1~~, ( ) \$5, ( ) \$10, ( ) \$25 or ( ) Other \$... ."

**Sec. 9. 36 MRSA §5289**, as enacted by PL 2005, c. 519, Pt. RRR, §1 and affected by §3, is amended to read:

**§5289. Maine Veterans' Memorial Cemetery Maintenance Fund voluntary checkoff**

**1. Maine Veterans' Memorial Cemetery Maintenance Fund.** When filing a return, a taxpayer entitled to a refund under this Part may designate that a

portion of that refund be paid into the Maine Veterans' Memorial Cemetery Maintenance Fund established in Title 37-B, section 504, subsection 6. A taxpayer who is not entitled to a refund under this Part may contribute to the Maine Veterans' Memorial Cemetery Maintenance Fund by including with that taxpayer's return sufficient funds to make the contribution. The contribution may not be less than ~~\$1~~ \$5. Each individual income tax return form must contain a designation in substantially the following form: "Maine Veterans' Memorial Cemetery Maintenance Fund: (→) ~~\$1~~, ( ) \$5, ( ) \$10, ( ) \$25 or ( ) Other \$... ."

**2. Contributions credited to Maine Veterans' Memorial Cemetery Maintenance Fund.** The State Tax Assessor shall determine annually the total amount contributed pursuant to subsection 1. Prior to the beginning of the next year, the State Tax Assessor shall deduct the cost, ~~up to \$2,000 annually~~, of administering the Maine Veterans' Memorial Cemetery Maintenance Fund checkoff and report the remainder to the Treasurer of State, who shall forward that amount to the Maine Veterans' Memorial Cemetery Maintenance Fund.

**Sec. 10. 36 MRSA §5290**, as enacted by PL 2005, c. 672, §3 and affected by §§6 and 8, is amended to read:

**§5290. Maine Asthma and Lung Disease Research Fund; voluntary checkoff**

**1. Maine Asthma and Lung Disease Research Fund.** When filing a return, a taxpayer entitled to a refund under this Part may designate that a portion of that refund be paid into the Maine Asthma and Lung Disease Research Fund established in Title 22, section 1700-A. A taxpayer who is not entitled to a refund under this Part may contribute to the Maine Asthma and Lung Disease Research Fund by including with that taxpayer's return sufficient funds to make the contribution. The contribution may not be less than ~~\$1~~ \$5. Each individual income tax return form must contain a designation in substantially the following form: "Maine Asthma and Lung Disease Research Fund: (→) ~~\$1~~, ( ) \$5, ( ) \$10, ( ) \$25 or ( ) Other \$.... ."

**2. Contributions credited to Maine Asthma and Lung Disease Research Fund.** The State Tax Assessor shall determine annually the total amount contributed pursuant to subsection 1. Prior to the beginning of the next year, the State Tax Assessor shall deduct the cost, ~~up to \$2,000 annually~~, of administering the Maine Asthma and Lung Disease Research Fund checkoff and report the remainder to the Treasurer of State, who shall forward that amount to the Maine Asthma and Lung Disease Research Fund.

**Sec. 11. 36 MRSA §5291** is enacted to read:

**§5291. Maine Public Library Fund; voluntary checkoff**

**1. Maine Public Library Fund.** When filing a return, a taxpayer entitled to a refund under this Part may designate that a portion of that refund be paid into the Maine Public Library Fund established in Title 27, section 8. A taxpayer who is not entitled to a refund under this Part may contribute to the Maine Public Library Fund by including with that taxpayer's return sufficient funds to make the contribution. The contribution may not be less than \$5. Each individual income tax return form must contain a designation in substantially the following form: "Maine Public Library Fund: ( ) \$5, ( ) \$10, ( ) \$25 or ( ) Other \$...."

**2. Contributions credited to Maine Public Library Fund.** The State Tax Assessor shall determine annually the total amount contributed pursuant to subsection 1. Prior to the beginning of the next year, the State Tax Assessor shall deduct the cost of administering the Maine Public Library Fund checkoff and report the remainder to the Treasurer of State, who shall forward that amount to the Maine Public Library Fund.

**Sec. 12. Report and review.** By January 15, 2017, the Department of Administrative and Financial Services, Bureau of Revenue Services shall submit a report to the joint standing committee of the Legislature having jurisdiction over taxation matters identifying the amount contributed to each income tax checkoff under the Maine Revised Statutes, Title 36, chapter 831 over the previous 5 years and the cost of administering the checkoffs, and listing any checkoffs removed from the individual tax return pursuant to Title 36, section 5283-A. By April 1, 2017, the joint standing committee of the Legislature having jurisdiction over taxation matters shall review the report and may submit a bill to the 128th Legislature to implement any recommendations resulting from the review.

**Sec. 13. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Revenue Services, Bureau of 0002**

Initiative: Provides a one-time appropriation for the administrative costs of adding one additional tax checkoff for the Maine Public Library Fund and eliminating the checkoff for political parties.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$10,500
<hr/>		
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$10,500</b>

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	\$10,500
<hr/>		
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$10,500</b>

**LIBRARY, MAINE STATE**

**Maine Public Library Fund N131**

Initiative: Allocates funds to provide grants to free public libraries in the State.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$10,000
<hr/>		
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$10,000</b>

**LIBRARY, MAINE STATE**

<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
OTHER SPECIAL REVENUE FUNDS	\$0	\$10,000
<hr/>		
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$10,000</b>

<b>SECTION TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	\$10,500
OTHER SPECIAL REVENUE FUNDS	\$0	\$10,000
<hr/>		
<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$20,500</b>

See title page for effective date.

**CHAPTER 686**

**S.P. 650 - L.D. 1865**

**An Act To Enhance Career and Technical Education**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures

from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 20-A MRSA §4722, sub-§3,** as amended by PL 2009, c. 313, §17, is further amended to read:

**3. Satisfactory completion.** A diploma may be awarded to secondary school students who have satisfactorily completed all diploma requirements in accordance with the academic standards of the school administrative unit and this chapter. All secondary school students must achieve the content standards of the parameters for essential instruction and graduation requirements established pursuant to section 6209. Children with disabilities, as defined in section 7001, subsection 1-B, who successfully meet the content standards of the parameters for essential instruction and graduation requirements in addition to any other diploma requirements applicable to all secondary school students, as specified by the goals and objectives of their individualized education plans, may be awarded a high school diploma. Career and technical students may, with the approval of the commissioner, satisfy the ~~2nd year math and science, the 2nd year social studies and the fine arts requirements of subsection 2~~ requirements of subsection 2 through separate or integrated study within the career and technical school curriculum, including through courses provided pursuant to section 8402 or 8451-A.

Students who experience education disruption, as defined in section 5001-A, subsection 4, paragraph F, who successfully demonstrate achievement of the content standards of the parameters for essential instruction and graduation requirements in addition to any other diploma requirements applicable to secondary school students as set forth in their school work recognition plans as defined in section 5161, subsection 6 must, with the approval of the commissioner, be awarded a Department of Education diploma as defined in section 5161, subsection 2.

**Sec. 2. 20-A MRSA §4801, sub-§2-A,** as enacted by PL 2003, c. 617, §1, is amended to read:

**2-A. Regional school calendars; plan; rules.** ~~Each~~ To be eligible for state subsidy, each school administrative unit and private school approved for tuition purposes shall work with affiliated units, as defined in section 8301-A, subsection 1, in its career and technical education center or school administrative units in its career and technical education region to develop and approve a regional school calendar that aligns the school calendars of sending schools with the school calendars of career and technical education

programs in the region. The plan for a regional school calendar must meet the following requirements.

A. There may not be more than ~~9 dissimilar instructional days within each regional 5 instructional days on which one or more of the school calendars of the school administrative units affiliated with a career and technical education center or one or more of the school calendars of the school administrative units within a career and technical education region are not aligned with the regional school calendar.~~

B. When career and technical education centers or regions overlap, there must be common calendars for each of the schools in those overlapping areas.

C. The authority for approving the regional school calendar must be within the school boards of the local school administrative units.

D. Regional school calendars for Aroostook County may have provisions for waivers of the number of dissimilar days for ~~extenuating circumstances~~ purposes of agricultural harvesting.

~~D-1. The commissioner, in accordance with rules adopted pursuant to this subsection, may authorize regional school calendars that do not comply with paragraph A if the commissioner determines that all school administrative units in the region have plans and will implement those plans to ensure compliance with paragraph F, notwithstanding the dissimilar calendar days.~~

E. Plans for regional school calendars that comply with this subsection must be approved and implemented in time for the ~~2005-2006~~ 2013-2014 school year.

F. All career and technical education students must be given access to career and technical education programs for the entire instructional time required for those programs by department rules.

The commissioner shall adopt rules to establish requirements for regional school calendars. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 3. 20-A MRSA §8402,** as amended by PL 2007, c. 667, §12, is further amended to read:

**§8402. Programs**

A center shall provide programs of career and technical education. Programs of career and technical education are eligible to receive state subsidy pursuant to chapters 606-B and 609. All programs of career and technical education offered by a center must be approved by the commissioner pursuant to section 8306-A. The programs must offer a sequence of courses that are directly related to the preparation of

individuals for employment in current or emerging occupations and may include training and education in academic and business skills preparing students to further their education at the community college or other college level or allowing students to use trade and occupational skills on other than an employee basis. Programs of career and technical education may also include alternative education programs and training and education in music, athletics, art and other activities approved by the commissioner pursuant to section 8306-A. A center may also provide courses described in section 4722, subsection 2, the successful completion of which satisfies the diploma requirements set forth in section 4722.

**Sec. 4. 20-A MRSA §8451-A**, as amended by PL 2007, c. 667, §13, is further amended to read:

**§8451-A. Programs**

A region shall provide programs of career and technical education. Programs of career and technical education are eligible to receive state subsidy pursuant to chapters 606-B and 609. All programs of career and technical education offered by a region must be approved by the commissioner pursuant to section 8306-A. The programs must offer a sequence of courses that are directly related to the preparation of individuals for employment in current or emerging occupations and may include training and education in academic and business skills preparing students to further their education at the community college or college level or allowing students to use trade and occupational skills on other than an employee basis. Programs of career and technical education may also include alternative education programs and training and education in music, athletics, art and other activities approved by the commissioner pursuant to section 8306-A. A region may also provide courses described in section 4722, subsection 2, the successful completion of which satisfies the diploma requirements set forth in section 4722.

**Sec. 5. 20-A MRSA §12709, sub-§11-A** is enacted to read:

**11-A. Memorandum of understanding with career and technical education system.** To enter into a memorandum of understanding with the Department of Education that establishes a process by which the Maine Community College System will review programs of the career and technical education centers and career and technical education regions established in chapter 313 that are using national industry or state certification standards to determine the nature and amount of college credit that must be awarded upon successful completion of an approved secondary school program. College credits must be awarded upon completion of a program directly to the student regardless of whether the student has matriculated in the college awarding the credit. The awarding of college credits to a secondary career and technical

education student does not entitle the student to acceptance into the community college awarding the credits.

**Sec. 6. Memorandum of understanding with career and technical education system.**

The Chancellor of the University of Maine System and the President of the Maine Maritime Academy shall each enter into a memorandum of understanding with the Department of Education that establishes a process by which the University of Maine System and the Maine Maritime Academy will each review programs of the career and technical education centers and career and technical education regions established in the Maine Revised Statutes, Title 20-A, chapter 313 that are using national industry or state certification standards to determine the nature and amount of college credit that must be awarded upon successful completion of an approved secondary school program. College credits must be awarded upon completion of a program directly to the student regardless of whether the student has matriculated in the college or university awarding the credit. The awarding of college or university credits to a secondary career and technical education student does not entitle the student to acceptance into the college or university awarding the credits.

See title page for effective date.

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**CHAPTER 687**

**S.P. 665 - L.D. 1888**

**An Act To Strengthen the State's Ability To Investigate and Prosecute Misuse of Public Benefits**

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

**Sec. 1. 17-A MRSA §905-C** is enacted to read:

**§905-C. Misuse of public benefits instrument**

**1. A person is guilty of misuse of a public benefits instrument if the person knowingly:**

**A. Transfers a public benefits instrument without authorization of the agency issuing the instrument; or**

**B. Obtains or possesses a public benefits instrument that was obtained without authorization of the agency issuing the instrument.**

**2. As used in this section, "public benefits instrument" means electronic benefits transfer cards, coupons, vouchers and any other means for distributing benefits from the following programs:**

A. The municipal general assistance program under Title 22, chapter 1161;

B. The TANF program under Title 22, chapter 1053-B;

C. The statewide food supplement program under Title 22, section 3104;

D. The child care subsidies under Title 22, chapter 1052-A; or

E. The Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.

3. Misuse of a public benefits instrument is a Class D crime.

**Sec. 2. 22 MRSA §13, sub-§6, ¶B,** as amended by PL 2003, c. 688, Pt. C, §6, is further amended to read:

B. Notwithstanding paragraph A, the department may terminate or suspend the participation of a provider in the MaineCare program pursuant to federal regulation and state rule. This authority includes, but is not limited to, provider payment suspensions required under section 1714-D.

**Sec. 3. 22 MRSA §21, sub-§4,** as enacted by PL 1995, c. 675, §1, is amended to read:

**4. Electronic benefits transfer system or EBT.** "Electronic benefits transfer system" or "EBT" means a system for the delivery of benefits to recipients by means of credit or debit card services, automated teller machines or point of sale devices or access to online systems for the withdrawal of funds or the processing of a payment for merchandise or a service.

**Sec. 4. 22 MRSA §23** is enacted to read:

**§23. Unauthorized use of electronic benefits transfer system**

**1. Unauthorized spending of benefits.** A recipient may not use the electronic benefits transfer system established under section 22 to effect any transaction in:

A. A retail establishment where 50% or more of the gross revenue of the establishment is derived from the sale of liquor as defined in Title 28-A, section 2, subsection 16;

B. A gambling facility, as defined in Title 8, section 1001, subsection 16, except that use of the electronic benefits transfer system is permitted in any portion of the premises of a gambling facility that is set aside separately for the sale primarily of staple foods as defined in 7 United State Code, Section 2012(r); or

C. A retail establishment that provides adult-oriented entertainment in which performers dis-

robe or perform in an unclothed state for entertainment.

**2. Rulemaking.** The department shall adopt rules to implement this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 5. 22 MRSA §1714-A, sub-§1, ¶C,** as enacted by PL 1991, c. 9, Pt. G, §4, is amended to read:

C. "Former provider" means the person reimbursed by the department for the provision of health care services at a nursing home, boarding home or hospital or other provider of health care services prior to its transfer.

**Sec. 6. 22 MRSA §1714-A, sub-§1, ¶¶I and J,** as enacted by PL 1991, c. 9, Pt. G, §4, are amended to read:

I. "Transfer" means any change in the ownership or control of a nursing home, boarding home or hospital or other provider of health care services, including, but not limited to, a sale, lease or gift of the land, building or operating entity, that results in:

- (1) The department reimbursing a person other than the former provider for the provision of care or services; or
- (2) The discontinuation of the provision of care or services.

J. "Transferee" means any person to whom a nursing home, boarding home or hospital or other provider of health care services is transferred.

**Sec. 7. 22 MRSA §1714-A, sub-§4, ¶¶A and B,** as enacted by PL 1991, c. 9, Pt. G, §4, are amended to read:

A. When a nursing home, boarding home or hospital or other provider of health care services is transferred, the transferee is liable for debts owed to the department by the former provider unless by the time of sale:

- (1) All debts owed by the former provider to the department have been paid, except as stated in subparagraph (2);
- (2) If the indebtedness is the subject of an administrative appeal, an escrow account has been created and funded in an amount sufficient to cover the debt as claimed by the department; or
- (3) An interim cost report has:
  - (a) Been filed and an escrow account has been created and funded in an amount sufficient to cover any overpayment identified in the report; or

(b) Not been filed and an escrow account has been created and funded in an amount sufficient to cover 5% of Medicaid reimbursement or cost reimbursement for the last fiscal year or \$50,000, whichever is less.

B. Any person affected by this subsection may request that the department identify the amount of any debt owed by a nursing home, boarding home ~~or~~ hospital or other provider of health care services. When the department receives such a request, it shall identify the debt within 30 days. Failure to identify the amount of a debt when a request is made in writing at least 30 days prior to the transfer precludes the department from recovering that debt from the transferee.

**Sec. 8. 22 MRSA §1714-A, sub-§4, ¶C**, as amended by PL 1991, c. 568, §2, is further amended to read:

C. The department shall provide written notice of the requirements of this section to the transferee in a letter acknowledging receipt of a request for a certificate of need or waiver of the certificate of need for a nursing home or hospital transfer or in response to a request for an application for a license to operate a boarding home or to provide other health care services.

**Sec. 9. 22 MRSA §1714-D** is enacted to read:

**§1714-D. Credible allegations of fraud; provider payment suspensions**

If the department determines that there is a credible allegation of fraud by a provider under the MaineCare program, the following procedures apply.

**1. Suspension of payments.** The department shall suspend payment in whole or in part to a MaineCare provider when a suspension is necessary to comply with Section 6402(h)(2) of the federal Patient Protection and Affordable Care Act of 2010, Public Law 111-148 and 42 Code of Federal Regulations, Part 455.

**2. Administrative appeal; scope.** A MaineCare provider may administratively appeal the department's decision to suspend payment under subsection 1.

**3. No stay during administrative appeal.** A suspension of payments under subsection 1 may not be stayed during an administrative appeal of the department's decision to suspend payment. The department may provide a fair opportunity for appropriate expedited relief from a suspension of payments consistent with federal law.

**4. Final determination; offset.** Upon a final determination that fraud has occurred and that money is owed by the MaineCare provider to the department, and 31 days after exhaustion of all administrative ap-

peals and any judicial review available under Title 5, chapter 375, the department may retain and apply as an offset to amounts determined to be owed to the department any payments to the provider that were suspended by the department pursuant to this section. The amount retained pursuant to this subsection may not exceed the amount determined finally to be owed.

**5. Confidentiality.** Except as necessary for purposes of the investigation of fraud or the administration of the MaineCare program, the department's records regarding a determination of a credible allegation of fraud are confidential until the relevant MaineCare provider has been given notice of a suspension of payments under subsection 1.

**6. Rules.** The department shall adopt rules to implement this section, including rules to define "credible allegation of fraud" and to provide exception and appeal procedures as required by and in accordance with the requirements of federal law and regulations. If the department provides a procedure for expedited relief from suspension of payments, as authorized in subsection 3, the rules must include that procedure. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**7. Repeal.** This section is repealed if Section 6402(h)(2) of the federal Patient Protection and Affordable Care Act of 2010, Public Law 111-148 and 42 Code of Federal Regulations, Part 455 are invalidated by the United States Supreme Court.

**Sec. 10. 22 MRSA §3104, sub-§12**, as amended by PL 2009, c. 291, §2, is further amended to read:

**12. Penalty.** The unauthorized issuance, redemption, use, transfer, acquisition, alteration or possession of coupons or other program access device, including an electronic benefits transfer card, may subject an individual, partnership, corporation or other legal entity to prosecution by the State in accordance with Sections 15 (b) and 15 (c) of the federal Food Stamp Act of 1977 and the federal Food and Nutrition Act of 2008. Penalties are in accordance with those outlined in federal law or regulations. A person who knowingly engages in trafficking in benefits as defined by 7 Code of Federal Regulations, Section 271.2 commits a Class D crime.

**Sec. 11. 22 MRSA §3811, sub-§3**, as amended by PL 1997, c. 466, §27 and affected by §28, is further amended to read:

**3. Overpayment.** "Overpayment" means program benefits ~~that an individual or assistance unit receives~~ that exceed the amount of program benefits for which ~~the an~~ individual or assistance unit is eligible when the department or a court has determined that the benefits were ~~received~~ provided as a result of an intentional program violation, an unintentional error by the

individual or household or an error by the department. "Overpayment" ~~includes any overpayment made before or after the effective date of this subsection~~ does not include an overpayment for medical services by the department pursuant to chapter 855 or municipal general assistance pursuant to chapter 1161, if the overpayment occurred due to an unintentional error by the individual or household or an error by the department or by the municipality in the case of municipal general assistance under chapter 1161.

**Sec. 12. 22 MRSA §3811, sub-§4,** as amended by PL 1997, c. 683, Pt. C, §9 and affected by §10, is further amended to read:

**4. Program benefits.** "Program benefits" means money payments or food coupons issued by the department pursuant to an application for benefits made by an individual to Aid to Families with Dependent Children established in former chapter 1053, the food stamp program established in chapter 851 or the Temporary Assistance to Needy Families program established in chapter ~~1053-A~~ 1053-B, or money payments or vouchers issued by a municipal general assistance program established pursuant to chapter 1161, or payments for medical services issued by the department pursuant to the MaineCare program established pursuant to chapter 855.

**Sec. 13. Emergency rules.** Notwithstanding the Maine Revised Statutes, Title 5, section 8054, the department may adopt emergency rules to implement Title 22, section 1714-D without the necessity of demonstrating that immediate adoption is necessary to avoid a threat to public health or safety or the general welfare, if notice is given through a MaineCare provider list and 5 days or more are allowed for comment prior to adoption of the rules.

**Sec. 14. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,  
DEPARTMENT OF (FORMERLY DHS)**

**Office for Family Independence Z020**

Initiative: Effective January 1, 2013, establishes and provides funding for 8 Fraud Investigator positions and 2 Office Associate positions and related All Other costs funded 50% from the General Fund and 50% from Other Special Revenue Funds in the Office for Family Independence program.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$156,506
All Other	\$0	\$9,822
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GENERAL FUND TOTAL	\$0	\$166,328

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	10.000
Personal Services	\$0	\$156,506
All Other	\$0	\$14,419
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$170,925

See title page for effective date.

**CHAPTER 688**

**S.P. 654 - L.D. 1873**

**An Act To Direct the  
Commissioner of Education To  
Adopt a Model Policy  
Regarding Management of  
Head Injuries in School  
Activities and Athletics**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Whereas,** students who participate in certain school activities and athletics are at risk of suffering concussive and other head injuries; and

**Whereas,** immediate enactment of this legislation will facilitate adoption of a model policy on the management of concussive and other head injuries that will benefit the health and safety of Maine's students; 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. 20-A MRSA §254, sub-§17** is enacted to read:

**17. Model policy for management of concussive and other head injuries.** In consultation with organizations representing school principals, school boards, school superintendents, athletic directors, athletic trainers, sports medicine practitioners, the Acquired Brain Injury Advisory Council established in Title 34-B, section 19001 and other interested parties, the commissioner shall develop a model policy on the management of concussive and other head injuries in school activities and athletics.

**Sec. 2. 20-A MRSA §1001, sub-§19** is enacted to read:

**19. Adoption of policy to manage concussive and other head injuries.** Beginning January 1, 2013, the school board of each public school and the governing body of each private school enrolling more than 60% of its students at public expense in this State shall adopt and implement a policy on the management of concussive and other head injuries in school activities and athletics that is consistent with the model policy developed by the commissioner in accordance with section 254, subsection 17.

**Sec. 3. Working group.** The Commissioner of Education shall convene a working group to meet during the spring and summer of 2012, and periodically thereafter, to advise the commissioner on the prevention, diagnosis and treatment of concussive and other head injuries in students and student athletes. The commissioner shall invite representatives from the Maine Principals' Association, the Maine School Superintendents Association, the Maine School Boards Association, the Maine School Management Association, the Acquired Brain Injury Advisory Council, the Maine Athletic Directors Association, the Maine Athletic Trainers Association, the Maine Concussion Management Initiative, sports medicine practitioners and medical providers to participate in the working group.

**Sec. 4. Model policy.** The working group under section 3 shall advise the Commissioner of Education on the provisions to be included in the model policy under the Maine Revised Statutes, Title 20-A, section 254, subsection 17 for the management of concussive and other head injuries in school activities and athletics and on the procedures to update the policy as medical knowledge of head injuries progresses. The model policy proposed by the commissioner must include, but is not limited to, the following provisions:

**1. Training.** A requirement that athletic directors, coaches and other school personnel involved with school activities and athletics must be trained in the identification and management of concussive and other head injuries;

**2. Student and parental acknowledgment.** A requirement that prior to each school year each student participating in a school athletic activity and the stu-

dent's parent or legal guardian must review the school's policy for the management of concussive and other head injuries and sign a statement acknowledging that review;

**3. Protocols and forms.** A requirement that the Department of Education must create protocols and forms that must be used by schools in the implementation of the policy on the management of concussive and other head injuries;

**4. Immediate removal and evaluation.** A requirement that a student suspected of having sustained a concussive or other head injury in any school activity or athletic practice or game must be removed from the activity, practice or game immediately and evaluated for brain injury prior to returning to the activity or practices and games; and

**5. Medical clearance.** A requirement that a student suspected of having sustained a concussion after an evaluation under subsection 4 must be banned from the school activity or athletic practices and games until the student has received written medical clearance from a licensed health care provider trained in concussion management for the student to begin the gradual resumption of participation in the activity or practices and games based on the current standards of care.

**Sec. 5. Implementation of model policy; phase-in.** In accordance with the provisions of section 4 and by September 1, 2012, the Commissioner of Education shall develop a model policy for the management of concussive and other head injuries as set forth in the Maine Revised Statutes, Title 20-A, section 254, subsection 17 for full implementation by school administrative units and private schools enrolling more than 60% of their students at public expense in this State no later than the 2013-2014 school year. Notwithstanding Title 20-A, section 1001, subsection 19, the implementation of the model policy must be phased in according to the following timeline.

**1. Local adoption by January 1, 2013.** The school board of each school administrative unit and the governing body of each private school enrolling more than 60% of its students at public expense in this State shall adopt and begin implementation of a policy on the management of concussive and other head injuries as set forth in Title 20-A, section 1001, subsection 19 no later than January 1, 2013.

**2. Phased-in implementation.** The school board of each school administrative unit and the governing body of each private school enrolling more than 60% of its students at public expense in this State shall gradually implement their policies, including the requirements included in the model policy developed by the commissioner, during the 2012-2013 and 2013-2014 school years and in accordance with the regular sequence of school activities and athletic seasons over

that period of time so that the policies are fully implemented by the end of the 2013-2014 school year.

The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over education matters by January 15, 2014 on the status of the implementation of the policies.

**Sec. 6. Sharing information.** The Commissioner of Education, school administrative units and private schools enrolling more than 60% of their students at public expense in this State may share with statewide and local organizations that sponsor sports and athletics the model policy, information, training, protocols and forms developed under section 4 regarding the management of concussive and other head injuries in school activities and athletics.

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

Effective May 21, 2012.

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## CHAPTER 689

### S.P. 678 - L.D. 1904

#### An Act To Create the Leased Space Reserve Fund and To Amend the Law Regarding the Issuance of Securities under the Maine Governmental Facilities Authority and To Provide for the Transfer of Certain Land

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

**Sec. 1. 5 MRS A §1516-B** is enacted to read:

**§1516-B. Leased Space Reserve Fund**

**1. Leased Space Reserve Fund.** There is created the Leased Space Reserve Fund, referred to in this section as "the fund," which may be used for costs related to relocation from leased space to state-owned facilities or relocation from a leased space to a lower-priced leased space and capital projects that construct, renovate or improve state facilities. Money in the fund may not be expended on facility maintenance issues.

**2. Nonlapsing fund.** Any unexpended money appropriated or allocated to the fund may not lapse, but must be carried forward.

**3. Funding of fund.** The Department of Administrative and Financial Services, Bureau of General Services shall notify the State Controller and the State Budget Officer of a relocation of a state agency from leased space to a state-owned facility or a relocation of a state agency from leased space to a lower-priced

leased space. Any balance, net of the value of the state cost allocation program as determined by the State Controller, remaining in General Fund or Other Special Revenue Funds money appropriated or allocated for leased space and all facility-related expenses for that agency during the biennium of the relocation as a result of savings resulting from the relocation must be transferred as provided in this subsection.

A. The State Budget Officer shall transfer 50% of any General Fund or Other Special Revenue Funds money through financial order to the fund. This transfer is considered to be an adjustment to the appropriation or allocation.

B. The remaining balance must be transferred to the General Fund as unappropriated surplus.

**Sec. 2. PL 2007, c. 240, Pt. Q, §1**, as amended by PL 2009, c. 213, Pt. XXXX, §1, is further amended to read:

**Sec. Q-1. Maine Governmental Facilities Authority; issuance of securities.** Pursuant to the Maine Revised Statutes, Title 4, section 1606, the Maine Governmental Facilities Authority is authorized to issue securities in its own name in an amount up to \$11,000,000 in fiscal year 2007-08 and \$6,000,000 in fiscal year 2008-09 or 2009-10 for the purpose of paying the cost, including preliminary planning costs, including but not limited to needs assessments and space planning, master planning, capital asset assessments, concept design, design development and final design including construction drawings, associated with capital repairs and improvements to state-owned facilities throughout the State and for the purchase or acquisition of facilities throughout the State as designated by the Commissioner of Administrative and Financial Services. The authority may also issue additional securities in its own name in an amount up to \$750,000 in fiscal year 2007-08 for preconstruction costs and capital improvements for a Department of Corrections project at the Bangor campus and for other capital improvements at the correctional facilities within the Department of Corrections any part or all of which may be advanced by the Department of Administrative and Financial Services, Bureau of General Services with reimbursement upon issuance of the additional securities.

**Sec. 3. Resolve 2011, c. 70, Pt. A, §2, sub-§2** is amended to read:

2. A parcel of land in Sinclair occupied by the Patrick Theriault School ~~consisting of approximately 73 acres conveyed to the Town of Sinclair School District and State by deed recorded in the Northern Aroostook County Registry of Deeds, Book 939 246, Page 228 386;~~ and be it further

**Sec. 4. Authority to purchase real property; funding; repeal.** Notwithstanding any other provision of law, the State, by and through the Com-

missioner of Administrative and Financial Services, may negotiate and effect the purchase of certain real property located at 127 Sewall Street, 108 Sewall Street and 96 Sewall Street in the City of Augusta from the Maine Public Employees Retirement System on terms and conditions that are in the best interest of the State. Notwithstanding any other provision of law, the Commissioner of Administrative and Financial Services may use any available resources for the purchase of the property. Any purchase made pursuant to this section must take place no later than June 30, 2013.

**Sec. 5. Authority to convey state property.** Notwithstanding any other provision of law, the State, by and through the Commissioner of Administrative and Financial Services, referred to in this section as "the commissioner," may:

**1. Conveyance of land.** Convey by sale to Bangor Hydro Electric Company, a Maine corporation with its principal place of business in Bangor, Maine, and its successors and assigns, a parcel of land no more than 2 acres in size, in the general location of the southwest corner of state-owned land, that is currently part of the Dorothea Dix Psychiatric Center, depicted on the City of Bangor Tax Map R-63, Lot 8 and recorded in the Penobscot County Registry of Deeds. The amount of land and the boundary of the property sold pursuant to this section must be determined by the commissioner, in the commissioner's sole discretion, to be in the best interests of the State;

**2. Easements and other rights.** Negotiate, draft, execute and deliver any easements or other rights that, in the commissioner's discretion, may contribute to the value of a proposed sale of the State's interests, including access rights allowing for the construction of a road to allow ingress and egress for workers and equipment of the transferee to the parcel of land to be conveyed under subsection 1 and an increase in the scope or width of a transmission line easement running along the westerly boundary of the property by virtue of an easement granted by the State in Book 1423, Page 12 in the Penobscot County Registry of Deeds; and

**3. Sale agreement; conditions.** Negotiate and execute a purchase and sale agreement upon such terms and conditions the commissioner considers appropriate and draft, execute and deliver any documents necessary to effect the sale of the property. The property must be conveyed "as is" with no representations or warranties. Title to the property must be transferred by quitclaim deed without covenants and executed by the commissioner.

Any sale pursuant to this section is exempt from any statutory or regulatory requirement that the property described in subsection 1 first be offered to the Maine State Housing Authority or another state or local agency.

Any proceeds from a sale pursuant to this section must be deposited into the Department of Administrative and Financial Services, Bureau of General Services capital repair and improvement account for capital improvements as designated by the commissioner.

**Sec. 6. Repeal.** Section 5 is repealed one year from its effective date unless a sale agreement under section 5, subsection 3 has been entered into prior to that date.

**Sec. 7. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Leased Space Reserve Fund Program N139**

Initiative: Provides funding to establish a baseline allocation for costs related to relocation and capital projects that construct, renovate or improve state facilities.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$500

**Sec. 8. Retroactivity.** That section of this Act that amends Resolve 2011, chapter 70, Part A, section 2, subsection 2 applies retroactively to September 28, 2011.

See title page for effective date.

**CHAPTER 690  
H.P. 1409 - L.D. 1905**

**An Act To Revise the Target Prices for the Dairy Stabilization Program**

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

**Whereas,** milk producers are receiving milk payments that are below their short-run break-even costs; and

**Whereas,** all sectors of the dairy industry and rural economies are in jeopardy; and

**Whereas,** it is in the State's economic interest to maintain a viable dairy industry and in the public interest to have a secure food supply; 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. 7 MRSA §3153-D**, as amended by PL 2009, c. 467, §5, is further amended to read:

**§3153-D. Transfer of revenues**

On or before the 18th day of each month, the administrator of the Maine Milk Pool shall ~~certify the amount~~ subtract the amount in the Maine Milk Pool, Other Special Revenue Funds account that is available for distribution for dairy stabilization support from the total amount to be distributed for the previous month pursuant to section 3153-B and certify this amount to the State Controller, who shall transfer the certified monthly amount when certified from General Fund undedicated revenue to the Maine Milk Pool, Other Special Revenue Funds account.

**Sec. 2. PL 2009, c. 467, §9** is repealed.

**Sec. 3. Interim target prices.** Beginning July 1, 2012 and until the Maine Milk Commission updates the Maine producer cost-of-production data and adopts new tiers of production and target prices in accordance with the Maine Revised Statutes, Title 7, section 3153-B, subsection 3, the production levels for each tier and the target prices for milk producers in the State are as follows:

1. For the first 16,790 hundredweight produced per year by each producer, the target price is \$21.00 per hundredweight;
2. For production from 16,791 hundredweight to 49,079 hundredweight per year by each producer, the target price is \$20.36 per hundredweight;
3. For production from 49,080 hundredweight to 76,800 hundredweight per year, the target price is \$18.01 per hundredweight; and
4. For production in excess of 76,800 hundredweight per year by each producer, the target price is \$17.83 per hundredweight.

**Sec. 4. Transfer of funds; Department of Agriculture, Food and Rural Resources.** Notwithstanding any other provision of law, on or before May 31, 2012, the State Controller shall transfer \$150,000 from the Milk Commission program, Other Special Revenue Funds account to the Milk Commission program, Maine Milk Pool, Other Special Revenue Funds account within the Department of Agriculture, Food and Rural Resources for the purpose of supporting the dairy stabilization program under the Maine Revised Statutes, Title 7, section 3153-B.

**Sec. 5. Transfer of funds; Department of Agriculture, Food and Rural Resources.** Notwithstanding any other provision of law, on or before May 31, 2012, the State Controller shall transfer \$200,000 from the Board of Pesticides Control program, Other Special Revenue Funds account to the Milk Commission program, Maine Milk Pool, Other Special Revenue Funds account within the Department of Agriculture, Food and Rural Resources for the purpose of supporting the dairy stabilization program under the Maine Revised Statutes, Title 7, section 3153-B.

**Sec. 6. Transfer of funds; Department of Agriculture, Food and Rural Resources.** Notwithstanding any other provision of law, on or before May 31, 2012, the State Controller shall transfer \$100,000 from the Beverage Container Enforcement Fund, Other Special Revenue Funds account to the Milk Commission program, Maine Milk Pool, Other Special Revenue Funds account within the Department of Agriculture, Food and Rural Resources for the purpose of supporting the dairy stabilization program under the Maine Revised Statutes, Title 7, section 3153-B.

**Sec. 7. Transfer of funds; Department of Agriculture, Food and Rural Resources.** Notwithstanding any other provision of law, on or before May 31, 2012, the State Controller shall transfer \$150,000 from the Office of the Commissioner program, Departmentwide Indirect, Other Special Revenue Funds account to the Milk Commission program, Maine Milk Pool, Other Special Revenue Funds account within the Department of Agriculture, Food and Rural Resources for the purpose of supporting the dairy stabilization program under the Maine Revised Statutes, Title 7, section 3153-B.

**Sec. 8. Transfer of funds; Department of Agriculture, Food and Rural Resources.** Notwithstanding any other provision of law, on or before May 31, 2012, the State Controller shall transfer \$30,000 from the Division of Plant Industry program, Other Special Revenue Funds account to the Milk Commission program, Maine Milk Pool, Other Special Revenue Funds account within the Department of Agriculture, Food and Rural Resources for the purpose of supporting the dairy stabilization program under the Maine Revised Statutes, Title 7, section 3153-B.

**Sec. 9. Transfer of funds; Department of Conservation.** Notwithstanding any other provision of law, on or before May 31, 2012, the State Controller shall transfer \$80,000 from the Division of Forest Protection program, Other Special Revenue Funds account within the Department of Conservation to the Milk Commission program, Maine Milk Pool, Other Special Revenue Funds account within the Department of Agriculture, Food and Rural Resources for the purpose of supporting the dairy stabilization program un-

der the Maine Revised Statutes, Title 7, section 3153-B.

**Sec. 10. Transfer of funds; Department of Conservation.** Notwithstanding any other provision of law, on or before May 31, 2012, the State Controller shall transfer \$110,000 from the Office of the Commissioner program, Publications Revolving Fund, Other Special Revenue Funds account within the Department of Conservation to the Milk Commission program, Maine Milk Pool, Other Special Revenue Funds account within the Department of Agriculture, Food and Rural Resources for the purpose of supporting the dairy stabilization program under the Maine Revised Statutes, Title 7, section 3153-B.

**Sec. 11. Transfer of funds; Department of Conservation.** Notwithstanding any other provision of law, on or before May 31, 2012, the State Controller shall transfer \$10,000 from the Office of the Commissioner program, Other Special Revenue Funds account within the Department of Conservation to the Milk Commission program, Maine Milk Pool, Other Special Revenue Funds account within the Department of Agriculture, Food and Rural Resources for the purpose of supporting the dairy stabilization program under the Maine Revised Statutes, Title 7, section 3153-B.

**Sec. 12. Appropriations and allocations.** The following appropriations and allocations are made.

**AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF**

**Milk Commission 0188**

Initiative: Adjusts allocation as a result of updating the target prices used to make payouts through the dairy stabilization program under the Maine Revised Statutes, Title 7, section 3153-B.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$2,331,547
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$2,331,547

**Sec. 13. Effective date.** That section of this Act that repeals Public Law 2009, chapter 467, section 9 takes effect July 1, 2012.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.

Effective May 21, 2012, unless otherwise indicated.

**CHAPTER 691  
H.P. 1383 - L.D. 1868**

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

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

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

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

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

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

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

**PART A**

**Sec. A-1. 1 MRSA §551,** as amended by PL 1973, c. 625, §4, is further amended to read:

**§551. Designation of paper**

The ~~Daily~~ Kennebec Journal, ~~a newspaper printed at Augusta, shall be~~ is the state paper of this State, in which ~~shall~~ **must** be published all advertisements, notices and orders required by law to be published in the state paper.

**Sec. A-2. 10 MRSA §1383, sub-§2,** as enacted by PL 1993, c. 263, §1, is amended to read:

**2. Exclusion.** This chapter does not create a lien on a documented vessel subject to a preferred ship mortgage or other preferred maritime lien pursuant to 46 United States Code, Chapter ~~434~~ **313**.

**Sec. A-3. 10 MRSA §2630, sub-§7,** as enacted by PL 2007, c. 336, §1, is repealed.

**Sec. A-4. 10 MRSA §8004-A,** as enacted by PL 2001, c. 323, §10 and amended by PL 2011, c. 286, Pt. B, §5, is further amended to read:

**§8004-A. Legislative reports**

The Director of the Office of Professional and Occupational Regulation shall report annually to the

joint standing committee of the Legislature having jurisdiction over professional ~~licensing and registration~~ and occupational regulation on the status of licensing fees and fee caps.

**Sec. A-5. 11 MRSA §2-1303, sub-§(2)**, as amended by PL 1999, c. 699, Pt. B, §12 and affected by §28, is further amended to read:

(2). Except as provided in subsection ~~(3)~~ (4) and section 9-1407, a provision in a lease agreement that prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods; or makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection (5), but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

**Sec. A-6. 11 MRSA §2-1303, sub-§(5)**, as amended by PL 1999, c. 699, Pt. B, §14 and affected by §28, is further amended to read:

(5). Subject to subsection ~~(3)~~ (4) and section 9-1407:

(a). If a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in section 2-1501, subsection (2); and

(b). If paragraph (a) is not applicable and if a transfer is made that is prohibited under a lease agreement or materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract:

(i) The transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer; and

(ii) A court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

**Sec. A-7. 12 MRSA §10902, sub-§6, ¶E**, as amended by PL 2011, c. 253, §15 and c. 309, §1, is repealed and the following enacted in its place:

E. Buying or selling bear, hunting or trapping bear after having killed 2 or exceeding the bag

limit on bear, in violation of section 11217, 11351 or 12260;

**Sec. A-8. 12 MRSA §10902, sub-§9, ¶F**, as amended by PL 2005, c. 626, §1, is further amended to read:

F. Operating an ATV on the land of another without permission, as prohibited under section 13157-A, subsection 1-A.

**Sec. A-9. 12 MRSA §11301, sub-§1**, as amended by PL 2011, c. 253, §19 and c. 432, §3, is repealed and the following enacted in its place:

**1. Bear baiting.** A person may not place bait to entice, hunt or trap black bear, unless:

A. The bait is placed at least 50 yards from a travel way that is accessible by a conventional 2-wheel-drive or 4-wheel-drive vehicle;

B. The stand, blind or bait area is plainly labeled with a 2-inch-by-4-inch tag with the name and address of the baiter;

C. The bait is placed more than 500 yards from a site permitted or licensed for the disposal of solid waste or a campground;

D. The bait is placed more than 500 yards from an occupied dwelling, unless written permission is granted by the owner or lessee;

E. The bait is placed not more than 30 days before the opening day of the season and not after October 31st;

F. The bait areas will be cleaned up by November 10th, as defined by the state litter laws; and

G. The person hunting from a stand or blind of another person has permission of the owner of that stand or blind.

A person may not use bait to hunt or trap black bear without the oral or written permission of the landowner.

**Sec. A-10. 16 MRSA §614, sub-§1**, as amended by PL 2011, c. 210, §1 and c. 356, §1, is repealed and the following enacted in its place:

**1. Limitation on dissemination of intelligence and investigative information.** Reports or records that contain intelligence and investigative information and that are prepared by, prepared at the direction of or kept in the custody of a local, county or district criminal justice agency; the Bureau of State Police; the Department of the Attorney General; the Maine Drug Enforcement Agency; the Office of the State Fire Marshal; the Department of Corrections; the criminal law enforcement units of the Department of Marine Resources, the Department of Inland Fisheries and Wildlife or the Department of the Secretary of State, Bureau of Motor Vehicles, office of investigations; the

Department of Conservation, Division of Forest Protection when the reports or records pertain to arson; or the Department of Agriculture, Food and Rural Resources when the reports or records pertain to animal cruelty are confidential and may not be disseminated if there is a reasonable possibility that public release or inspection of the reports or records would:

- A. Interfere with law enforcement proceedings;
- B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;
- C. Constitute an unwarranted invasion of personal privacy;
- D. Disclose the identity of a confidential source;
- E. Disclose confidential information furnished only by the confidential source;
- F. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information or by the Department of the Attorney General;
- G. Disclose investigative techniques and procedures or security plans and procedures not generally known by the general public;
- H. Endanger the life or physical safety of any individual, including law enforcement personnel;
- I. Disclose conduct or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General;
- J. Disclose information designated confidential by some other statute; or
- K. Identify the source of complaints made to the Department of the Attorney General involving violations of consumer or antitrust laws.

**Sec. A-11. 17-A MRSA §2, sub-§10**, as repealed and replaced by PL 1977, c. 510, §11, is amended to read:

**10.** "Dwelling place" means a structure ~~which~~ that is adapted for overnight accommodation of persons, or sections of any structure similarly ~~adapted~~ adapted. A dwelling place does not include garages or other structures, whether adjacent or attached to the dwelling place, ~~which that~~ which are used solely for the storage of property or structures formerly used as dwelling places ~~which that~~ which are uninhabitable. It is immaterial whether a person is actually present.

**Sec. A-12. 17-A MRSA §15, sub-§1, ¶A**, as amended by PL 2011, c. 341, §6 and c. 464, §4, is repealed and the following enacted in its place:

A. Any person who the officer has probable cause to believe has committed or is committing:

- (1) Murder;
- (2) Any Class A, Class B or Class C crime;
- (3) Assault while hunting;
- (4) Any offense defined in chapter 45;
- (5) Assault, criminal threatening, terrorizing or stalking, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;
- (5-A) Assault, criminal threatening, terrorizing, stalking, criminal mischief, obstructing the report of a crime or injury or reckless conduct if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 19-A, section 4002, subsection 4;
- (5-B) Domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct;
- (6) Theft as defined in section 357, when the value of the services is \$1,000 or less if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (8) Negotiating a worthless instrument if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (9) A violation of a condition of probation when requested by a probation officer or juvenile community corrections officer;
- (10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1027, subsection 3; Title 15, section 1051, subsection 2; and Title 15, section 1092;
- (11) Theft involving a detention under Title 17, section 3521;
- (12) Harassment, as set forth in section 506-A;
- (13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; former Title 19, section 769, subsection 2; former Title 19, section 770, subsection 5; Title 19-A, section 4011, subsection 3; and Title 19-A, section 4012, subsection 5;

(14) A violation of a sex offender registration provision under Title 34-A, chapter 15;

(15) A violation of a requirement of administrative release when requested by the attorney for the State;

(16) A violation of a condition of supervised release for sex offenders when requested by a probation officer;

(17) A violation of a court-imposed deferment requirement of a deferred disposition when requested by the attorney for the State;

(18) A violation of a condition of release as provided in Title 15, section 3203-A, subsection 9;

(19) A violation of a condition of supervised community confinement granted pursuant to Title 34-A, section 3036-A when requested by a probation officer;

(20) A violation of a condition of placement on community reintegration status granted pursuant to Title 34-A, sections 3810 and 4112 when requested by a juvenile community corrections officer;

(21) A violation of a condition of furlough or other rehabilitative program authorized under Title 34-A, section 3035 when requested by a probation officer or juvenile community corrections officer;

(22) A violation of preconviction or post-conviction bail pursuant to Title 15, section 1095, subsection 2 or section 1098, subsection 2 upon request of the attorney for the State;

(23) Failure to appear in violation of Title 15, section 1091, subsection 1, paragraph A;

(24) A Class D or Class E crime committed while released on preconviction or post-conviction bail; or

(25) A violation of a condition of release from a community confinement monitoring program pursuant to Title 30-A, section 1659-A; and

**Sec. A-13. 17-A MRSA §253, sub-§2, ¶I**, as amended by PL 2011, c. 423, §1 and c. 464, §5, is repealed and the following enacted in its place:

I. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a current patient or client of the actor. Violation of this paragraph is a Class C crime;

**Sec. A-14. 17-A MRSA §255-A, sub-§1, ¶U**, as amended by PL 2011, c. 423, §5 and c. 464, §10, is repealed and the following enacted in its place:

U. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a current patient or client of the actor. Violation of this paragraph is a Class D crime;

**Sec. A-15. 17-A MRSA §255-A, sub-§1, ¶V**, as amended by PL 2011, c. 423, §5 and c. 464, §11, is repealed and the following enacted in its place:

V. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a current patient or client of the actor and the sexual contact includes penetration. Violation of this paragraph is a Class C crime;

**Sec. A-16. 17-A MRSA §260, sub-§1, ¶K**, as amended by PL 2011, c. 423, §8 and c. 464, §12, is repealed and the following enacted in its place:

K. The actor is a psychiatrist, a psychologist or licensed as a social worker or purports to be a psychiatrist, a psychologist or licensed as a social worker to the other person and the other person, not the actor's spouse, is a current patient or client of the actor. Violation of this paragraph is a Class D crime;

**Sec. A-17. 17-A MRSA §1057, sub-§5**, as amended by PL 2011, c. 298, §3 and c. 366, §3, is repealed and the following enacted in its place:

5. For purposes of this section, "under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive alcohol level" has the same meaning as "under the influence of intoxicants" as defined in Title 29-A, section 2401, subsection 13. "Excessive alcohol level" means an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. Standards, tests and procedures applicable in determining whether a person is under the influence or has an excessive alcohol level within the meaning of this section are those applicable pursuant to Title 29-A, sections 2411 and 2431; except that the suspension of a permit to carry concealed handguns issued pursuant to Title 25, chapter 252, or of the authority of a professional investigator licensed to carry a concealed handgun pursuant to Title 32, chapter 89, is as provided in those chapters.

**Sec. A-18. 20-A MRSA §1506, sub-§4**, as amended by PL 2007, c. 668, §24 and c. 695, Pt. A, §22, is repealed and the following enacted in its place:

4. Debt of original education units. After July 1st of the first operational year of the new unit for each original education unit with existing debt that has reorganized into a new unit, if the new unit has not agreed to assume liability to pay that existing debt, the regional school unit board shall serve as agent for purposes of that existing debt and has full authority to:

A. Sue and be sued in the name of the original education unit with respect to the existing debt;

B. Determine the debt service due each fiscal year on any existing debt;

C. As applicable, allocate to each member of the original education unit the member's share of the annual debt service for the existing debt of the original education unit in addition to each member's share of costs of the new unit;

D. Collect the allocation for debt service on the existing debt from the original education unit or, as applicable, from each member of the original education unit in addition to each member's share of costs of the new unit;

E. Pay the debt service on the existing debt of the original education unit when due; and

F. Take all other actions necessary and proper with respect to the existing debt.

Allocations between members of the original education unit to pay the debt service for the existing debt must be made on the basis of the cost-sharing formula of the original education unit in effect on July 1, 2007, as applied to the year of allocation. In the case of state-subsidized debt service, the provisions of subsection 3 apply. Amounts to pay the debt service on the existing debt of the original education units must be included in the budget that the regional school unit board of a new unit submits for approval. If the original education unit is divided between different new units that have not agreed to assume liability to pay the existing debt, the commissioner shall require that the reorganization plan of one of those new units provide for that new unit to serve as agent for purposes of the existing debt of the original education unit. That new unit, as agent, has the authority provided by this subsection, except that the new unit shall notify the other new units containing members of the original education unit of the amounts they must assess and collect from their members who were members of the original education unit, and those other new units shall perform the functions in paragraphs C and D with respect to their members, and shall pay the appropriate amounts over to the new unit serving as agent.

**Sec. A-19. 21-A MRSA §1059, sub-§2, ¶A,** as amended by PL 2011, c. 367, §2 and c. 389, §44, is repealed and the following enacted in its place:

A. All committees shall file quarterly reports:

(1) On January 15th, and the report must be complete as of December 31st;

(2) On April 10th, and the report must be complete as of March 31st;

(3) On July 15th, and the report must be complete as of June 30th; and

(4) On October 5th, and the report must be complete as of September 30th.

**Sec. A-20. 22 MRSA §1711-C, sub-§18,** as enacted by PL 2011, c. 347, §8 and c. 373, §3, is repealed and the following enacted in its place:

**18. Participation in a state-designated statewide health information exchange.** The following provisions apply to participation in a state-designated statewide health information exchange.

A. A health care practitioner may not deny a patient health care treatment and a health insurer may not deny a patient a health insurance benefit based solely on the provider's or patient's decision not to participate in a state-designated statewide health information exchange. Except when otherwise required by federal law, a payor of health care benefits may not require participation in a state-designated statewide health information exchange as a condition of participating in the payor's provider network.

B. Recovery for professional negligence is not allowed against any health care practitioner or health care facility on the grounds of a health care practitioner's or a health care facility's nonparticipation in a state-designated statewide health information exchange arising out of or in connection with the provision of or failure to provide health care services. In any civil action for professional negligence or in any proceeding related to such a civil action or in any arbitration, proof of a health care practitioner's, a health care facility's or a patient's participation or nonparticipation in a state-designated statewide health information exchange is inadmissible as evidence of liability or nonliability arising out of or in connection with the provision of or failure to provide health care services. This paragraph does not prohibit recovery or the admission of evidence of reliance on information in a state-designated statewide electronic health information exchange when there was participation by both the patient and the patient's health care practitioner.

C. A state-designated statewide health information exchange to which health care information is disclosed under this section shall provide an individual protection mechanism by which an individual may opt out from participation to prohibit the state-designated statewide health information exchange from disclosing the individual's health

care information to a health care practitioner or health care facility.

D. At point of initial contact, a health care practitioner, health care facility or other entity participating in a state-designated statewide health information exchange shall provide to each patient, on a separate form, at minimum:

(1) Information about the state-designated statewide health information exchange, including a description of benefits and risks of participation in the state-designated statewide health information exchange;

(2) A description of how and where to obtain more information about or contact the state-designated statewide health information exchange;

(3) An opportunity for the patient to decline participation in the state-designated statewide health information exchange; and

(4) A declaration that a health care practitioner, health care facility or other entity may not deny a patient health care treatment based solely on the provider's or patient's decision not to participate in a state-designated statewide health information exchange.

The state-designated statewide health information exchange shall develop the form for use under this paragraph, with input from consumers and providers. The form must be approved by the office of the state coordinator for health information technology within the Governor's office of health policy and finance.

E. A health care practitioner, health care facility or other entity participating in a state-designated statewide health information exchange shall communicate to the exchange the decision of each patient who has declined participation and shall do so within a reasonable time frame, but not more than 2 business days following the receipt of a signed form, as described in paragraph D, from the patient, or shall establish a mechanism by which the patient may decline participation in the state-designated statewide health information exchange at no cost to the patient.

F. A state-designated statewide health information exchange shall process the request of a patient who has decided not to participate in the state-designated statewide health information exchange within 2 business days of receiving the patient's decision to decline, unless additional time is needed to verify the identity of the patient. A signed authorization from the patient is required before a patient is newly entered or reentered into the system if the patient chooses to begin participation at a later date.

Except as otherwise required by applicable law, regulation or rule or state or federal contract, or when the state-designated statewide health information exchange is acting as the agent of a health care practitioner, health care facility or other entity, the state-designated statewide health information exchange shall remove health information of individuals who have declined participation in the exchange. In no event may health information retained in the state-designated statewide health information exchange as set forth in this paragraph be made available to health care practitioners, health care facilities or other entities except as otherwise required by applicable law, regulation or rule or state or federal contract, or when the health care practitioner, health care facility or other entity is the originator of the information.

G. A state-designated statewide health information exchange shall establish a secure website accessible to patients. This website must:

(1) Permit a patient to request a report of who has accessed that patient's records and when the access occurred. This report must be delivered to the patient within 2 business days upon verification of the patient's identity by the state-designated statewide health information exchange;

(2) Provide a mechanism for a patient to decline participation in the state-designated statewide health information exchange; and

(3) Provide a mechanism for the patient to consent to participation in the state-designated statewide health information exchange if the patient had previously declined participation.

H. A state-designated statewide health information exchange shall establish for patients an alternate procedure to that provided for in paragraph F that does not require Internet access. A health care practitioner, health care facility or other entity participating in the state-designated statewide health information exchange shall provide information about this alternate procedure to all patients. The information must be included on the form identified in paragraph D.

I. A state-designated statewide health information exchange shall maintain records regarding all disclosures of health care information by and through the state-designated statewide health information exchange, including the requesting party and the dates and times of the requests and disclosures.

J. A state-designated statewide health information exchange may not charge a patient or an authorized representative of a patient any fee for access or communication as provided in this subsection.

K. Notwithstanding any provision of this subsection to the contrary, a health care practitioner, health care facility or other entity shall provide the form and communication required by paragraphs D and F to all existing patients following the effective date of this subsection.

L. A state-designated statewide health information exchange shall meet or exceed all applicable federal laws and regulations pertaining to privacy, security and breach notification regarding personally identifiable protected health information, as defined in 45 Code of Federal Regulations, Part 160. If a breach occurs, the state-designated statewide health information exchange shall arrange with its participants for notification of each individual whose protected health information has been, or is reasonably believed by the exchange to have been, breached. For purposes of this paragraph, "breach" has the same meaning as in 45 Code of Federal Regulations, Part 164, as amended.

M. The state-designated statewide health information exchange shall develop a quality management plan, including auditing mechanisms, in consultation with the office of the state coordinator for health information technology within the department, who shall review the plan and results.

**Sec. A-21. 22 MRSA §2425, sub-§5,** as amended by PL 2011, c. 383, §2 and c. 407, Pt. B, §24, is repealed and the following enacted in its place:

**5. Registry identification card issuance.** The department shall issue registry identification cards to registered patients, to registered primary caregivers and to staff of hospice providers and nursing facilities designated by registered patients as primary caregivers within 5 days of approving an application or renewal under this section. Registry identification cards expire one year after the date of issuance except that the date of issuance and expiration date of a registered primary caregiver's registry identification card must be the same as the issuance and expiration dates on the patient's registry identification card. Registry identification cards must contain:

A. The name of the cardholder;

C. The date of issuance and expiration date of the registry identification card;

D. A random identification number that is unique to the cardholder; and

F. A clear designation showing whether the cardholder is allowed under this chapter to cultivate marijuana.

**Sec. A-22. 22 MRSA §2425, sub-§8, ¶G,** as amended by PL 2011, c. 383, §3 and c. 407, Pt. B, §27, is repealed and the following enacted in its place:

G. Records maintained by the department pursuant to this chapter that identify applicants for a registry identification card, registered patients, registered primary caregivers and registered patients' physicians are confidential and may not be disclosed except as provided in this subsection and as follows:

(1) To department employees who are responsible for carrying out this chapter;

(2) Pursuant to court order or subpoena issued by a court;

(3) With written permission of the registered patient or the patient's guardian, if the patient is under guardianship, or a parent, if the patient has not attained 18 years of age;

(4) As permitted or required for the disclosure of health care information pursuant to section 1711-C;

(5) To a law enforcement official for verification purposes. The records may not be disclosed further than necessary to achieve the limited goals of a specific investigation; and

(6) To a registered patient's treating physician and to a registered patient's primary caregiver for the purpose of carrying out this chapter.

**Sec. A-23. 24-A MRSA §4317, sub-§6,** as enacted by PL 2011, c. 443, §6, is amended to read:

**6. Pharmacy benefits manager duties.** All contracts must provide that, when the pharmacy benefits manager receives payment for the services of a pharmacist or pharmacy, the pharmacy benefits manager shall distribute the funds in accordance with the time frames provided in ~~Title 22, section 2699-A~~ this subchapter.

**Sec. A-24. 25 MRSA §2001-A, sub-§2,** as amended by PL 2011, c. 298, §§4 and 5; c. 394, §3; and c. 396, §§1 to 3, is repealed and the following enacted in its place:

**2. Exceptions.** The provisions of this section concerning the carrying of concealed weapons do not apply to:

A. A handgun carried by a person to whom a valid permit to carry a concealed handgun has been issued as provided in this chapter;

B. Disabling chemicals as described in Title 17-A, section 1002;

C. Knives used to hunt, fish or trap as defined in Title 12, section 10001;

D. A handgun carried by a law enforcement officer, a corrections officer or a corrections supervisor as permitted in writing by the officer's or supervisor's employer;

E. A firearm carried by a person engaged in conduct for which a state-issued hunting or trapping license is required and possessing the required license, or a firearm carried by a resident person engaged in conduct expressly authorized by Title 12, section 11108 and section 12202, subsection 1. This paragraph does not authorize or permit the carrying of a concealed or loaded firearm in a motor vehicle:

F. A handgun carried by a person to whom a valid permit to carry a concealed handgun has been issued by another state if a permit to carry a concealed handgun issued from that state has been granted reciprocity. The Chief of the State Police may enter into reciprocity agreements with any other states that meet the requirements of this paragraph. Reciprocity may be granted to a permit to carry a concealed handgun issued from another state if:

(1) The other state that issued the permit to carry a concealed handgun has substantially equivalent or stricter requirements for the issuance of a permit to carry a concealed handgun; and

(2) The other state that issued the permit to carry a concealed handgun observes the same rules of reciprocity regarding a person issued a permit to carry a concealed handgun under this chapter:

G. A handgun carried by an authorized federal, state or local law enforcement officer in the performance of the officer's official duties;

H. A handgun carried by a qualified law enforcement officer pursuant to 18 United States Code, Section 926B. The qualified law enforcement officer must have in the law enforcement officer's possession photographic identification issued by the law enforcement agency by which the person is employed as a law enforcement officer; and

I. A handgun carried by a qualified retired law enforcement officer pursuant to 18 United States Code, Section 926C. The qualified retired law enforcement officer must have in the retired law enforcement officer's possession:

(1) Photographic identification issued by the law enforcement agency from which the person retired from service as a law enforcement officer that indicates that the person has, not less recently than one year before the date the person carries the concealed handgun, been tested or otherwise found by that agency to meet the standards established by that agency for training and qualification for an active law enforcement officer to carry a handgun of the same type as the concealed handgun; or

(2) Photographic identification issued by the law enforcement agency from which the person retired from service as a law enforcement officer and a certification issued by the state in which the person resides that indicates that the person has, not less recently than one year before the date the person carries the concealed handgun, been tested or otherwise found by that state to meet the standards established by that state for training and qualification for an active law enforcement officer to carry a handgun of the same type as the concealed handgun.

**Sec. A-25. 25 MRSA §2452, first ¶**, as amended by PL 2011, c. 349, §1 and c. 398, §1, is repealed and the following enacted in its place:

The Commissioner of Public Safety shall adopt and may amend rules governing the safety to life from fire in or around all buildings or other structures and mass outdoor gatherings, as defined in Title 22, section 1601, subsection 2, within the commissioner's jurisdiction. Automatic sprinkler systems may not be required in existing noncommercial places of assembly. Noncommercial places of assembly include those facilities used for such purposes as deliberation, worship, entertainment, amusement or awaiting transportation that have a capacity of 100 to 300 persons. Automatic sprinkler systems may not be required in existing commercial places of assembly that are open for no more than 50 days per calendar year. "Commercial places of assembly" includes bars with live entertainment, dance halls, nightclubs, assembly halls with large open areas in which patrons stand or sit, commonly referred to as "festival seating," and restaurants. Rules adopted pursuant to this section are routine technical rules, except that rules pertaining to fire sprinklers are major substantive rules, both of which are defined in Title 5, chapter 375, subchapter 2-A.

**Sec. A-26. 26 MRSA §1043, sub-§11, ¶A-1**, as amended by PL 1997, c. 293, §2, is further amended to read:

A-1. After December 31, 1971, employment ~~shall include~~ includes:

(1) Notwithstanding paragraph F, except as herein provided, service performed by an individual, prior to January 1, 1978, in the employ of this State or any of its instrumentalities, or in the employ of this State and one or more states or their instrumentalities, for a hospital or institution of higher education located in this State, provided that such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of ~~section~~ Section 3306 (c)(7) of that Act and service performed after December 31, 1977, in the employ of this State or any of its instrumentalities or any political subdivi-

sion thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other ~~States~~ states or political subdivisions; provided that such service is excluded from "employment" as defined in the Federal Unemployment Tax Act by ~~section~~ Section 3306 (c)(7) of that Act and is not excluded under paragraph F, subparagraph ~~(21)~~ (17);

(2) Any service performed by an individual as an agent-driver or commission-driver engaged in laundry or dry-cleaning services, or in distributing meat products, vegetable products, fruit products, bakery products, beverages, other than milk, for ~~his~~ that individual's principal; as a traveling or city ~~salesman~~ sales representative, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, ~~his~~ that individual's principal, except for side-line sales activities on behalf of some other person, of orders from wholesalers, retailers, contractors or operators of hotels, restaurants or other similar establishments for merchandise for resale or supplies for use in their business operations;

(3) Notwithstanding paragraph F, except as herein provided, service performed in the employ of a religious, charitable, educational or other organization that is excluded from the term employment as defined in the Federal Unemployment Tax Act solely by reason of Section 3306 (c)(8) of that Act; and the organization had 4 or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time; and such services are not excluded under paragraph F, subparagraph ~~(21)~~ (17), divisions (a) through (i);

(4) The service of an individual who is a citizen of the United States, performed outside the United States, after December 31, 1971, except in Canada, in the employ of an American employer, other than service ~~which~~ that is deemed employment under paragraph A, if:

(a) The employer's principal place of business in the United States is located in this State;

(b) The employer has no place of business in the United States, but the employer is an individual who is a resident of this State; or the employer is a corporation ~~which~~ that is organized under the

laws of this State; or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this State is greater than the number who are residents of any other state;

(c) None of the criteria of divisions (a) and (b) is met but the employer has elected coverage in this State or, the employer having failed to elect coverage in any ~~State~~ state, the individual has filed a claim for benefits, based on such service, under the law of this State; or

(d) An American employer, for purposes of this subparagraph, means a person who is an individual who is a resident of the United States; or a partnership if 2/3 or more of the partners are residents of the United States; or a trust, if all of the trustees are residents of the United States; or a corporation organized under the laws of the United States or of any state.

**Sec. A-27. 26 MRSA §1043, sub-§11, ¶F,** as amended by PL 2011, c. 66, §1 and c. 70, §1, is repealed and the following enacted in its place:

F. The term "employment" does not include:

(1) Service performed in the employ of this State, or of any political subdivision thereof, or of any instrumentality of this State or its political subdivisions, except as provided by this subsection;

(2) Service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this chapter, except that on and after January 1, 1940 to the extent that the Congress of the United States has permitted states to require any instrumentalities of the United States to make payments into an unemployment compensation fund under a state unemployment compensation or employment security law, all of the provisions of this chapter are applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services. If this State is not certified for any year by the Secretary of Labor under the federal Internal Revenue Code, Section 3304, the payments required of such instrumentalities with respect to that year must be refunded by the commissioner from the fund in the same manner and within the same period as is provided in section 1225.

subsection 5, with respect to contributions erroneously collected;

(3) Service with respect to which unemployment compensation is payable under an unemployment compensation system or employment security system established by an Act of Congress. The commissioner is authorized and directed to enter into agreements with the proper agencies under such an Act of Congress, which agreements become effective 10 days after publication thereof in the manner provided in section 1082, subsection 2, for regulations, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such an Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such an Act of Congress, acquired rights to benefits under this chapter;

(4) Agricultural labor as defined in subsection 1, except as provided in paragraph A-2;

(5) Service performed by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to the United States Immigration and Nationality Act, Sections 214(c) and 101(a) (15) (H);

(6) Domestic service in a private home, except as provided in paragraph A-3;

(7) Service performed by an individual in the employ of that individual's son, daughter or spouse and service performed by a child under 18 years of age in the employ of that child's father or mother, except for periods of such service for which unemployment insurance contributions are paid;

(8) Service performed by a student attending an elementary, secondary or postsecondary school while participating in a cooperative program of education and occupational training or on-the-job training that is part of the school curriculum;

(9) Service performed with respect to which unemployment compensation is payable under the federal Railroad Unemployment Insurance Act, 52 Stat. 1094 (1938);

(10) Service performed in the employ of any other state or any political subdivision thereof or any instrumentality of any one or more of the foregoing that is wholly owned by one or more states or political subdivisions and any services performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that

the instrumentality is, with respect to such a service, immune under the Constitution of the United States from the tax imposed by Section 3301 of the federal Internal Revenue Code, except as provided in paragraph A-1, subparagraph (1);

(11) Service performed in any calendar quarter in the employ of any organization exempt from income tax under the federal Internal Revenue Code, Section 501(a) other than an organization described in the federal Internal Revenue Code, Section 401(a), or under Section 521, if the remuneration for such service is less than \$150;

(12) Service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(13) Service performed in the employ of an instrumentality wholly owned by a foreign government:

(a) If the service is of a character similar to that performed in foreign countries by employees of the United States Government or an instrumentality thereof; and

(b) If the commissioner finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States Government and of instrumentalities thereof;

(14) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law and service performed as an intern in the employ of a hospital by an individual who has completed a 4-year course in a medical school chartered or approved pursuant to state law;

(15) Service performed by an individual for a person as a real estate broker, a real estate sales representative, an insurance agent or an insurance solicitor, if all such service performed by that individual for that person is performed for remuneration solely by way of commission;

(16) Service performed by an individual under 18 years of age in the delivery or distribution of newspapers or shopping news, except

delivery or distribution to any point for subsequent delivery or distribution;

(17) Service performed in the employ of any organization that is excluded from the term "employment" as defined in the Federal Unemployment Tax Act solely by reason of 26 United States Code, Section 3306(c)(7) or (8) if:

(a) Service is performed in the employ of a church or convention or association of churches or an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) Service is performed by a duly ordained, commissioned or licensed minister of a church in the exercise of that minister's ministry or by a member of a religious order in the exercise of duties required by that order;

(c) Prior to January 1, 1978, service is performed in the employ of a school primarily operated as an elementary, secondary or preparatory school for higher education that is not an institution of higher education;

(d) Service is performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental disability or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

(e) Service is performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving that work relief or work training;

(f) Service is performed in the employ of a hospital, as defined in subsection 26, by a patient of that hospital;

(g) Service is performed prior to January 1, 1978 for a hospital in a state prison or other state correctional institution by an inmate of that prison or correctional institution and after December 31, 1977 by

an inmate of a custodial or penal institution;

(h) Service is performed in the employ of a school, college or university if that service is performed by a student who is enrolled and is regularly attending classes at such a school, college or university; or

(i) Prior to January 1, 1978, service is performed in the employ of a school that is not an institution of higher education and after December 31, 1977, service is performed in the employ of a governmental entity referred to in paragraph A-1, subparagraph (1) if that service is performed by an individual in the exercise of duties:

(i) As an elected official;

(ii) As a member of a legislative body or a member of the judiciary of a state or political subdivision of a state;

(iii) As a member of the State National Guard or Air National Guard;

(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(v) In a position that, under or pursuant to the laws of this State, is designated as a major nontenured policy-making or advisory position or a policy-making or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week; or

(vi) As an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than \$1,000;

(18) Service performed under a booth rental agreement or other rental agreement by:

(a) A hairdresser who holds a booth license and operates within another hair-dressing establishment; or

(b) A tattoo artist if the service performed by the tattoo artist is not subject to federal unemployment tax;

(19) Service performed by a barber who holds a booth license and operates within another barbering establishment if operated un-

der a booth rental agreement or other rental agreement;

(20) Service performed by a contract interviewer engaged in marketing research or public opinion interviewing when such interviewing is conducted in the field or over the telephone on premises not used or controlled by the person for whom such contract services are being provided;

(21) After December 31, 1981, service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life, unless those services would be included in the definition of "employment" for federal unemployment tax purposes under the Federal Unemployment Tax Act, 26 United States Code, Section 3306(c), as amended. Also included in this exemption are services performed in harvesting shellfish for depuration from designated areas as authorized by Title 12, section 6856;

(22) Service performed by a member or leader of a musical group, band or orchestra or an entertainer when the services are performed under terms of a contract entered into by the leader or an agent of the musical group, band, orchestra or entertainer with an employing unit for whom the services are being performed, if the leader or agent is not an employer by reason of subsection 9 or of section 1222, subsection 3;

(23) Service performed in the delivery or distribution of newspapers or magazines to the ultimate consumer by an individual who is compensated by receiving or retaining a commission or profit on the sale of the newspaper or magazine;

(24) Service performed by a homemaker in the knitted outerwear industry as those terms are defined, on September 19, 1985, in 29 Code of Federal Regulations, Part 530, Section 530.1;

(25) Service performed by a full-time student, as defined in subsection 30, in the employ of a youth camp licensed under Title 22, section 2495 if the full-time student performed services in the employ of the camp for less than 13 calendar weeks in the calendar year and the camp:

(a) Did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year; or

(b) Had average gross receipts for any 6 months in the preceding calendar year

that were not more than 33 1/3% of its average gross receipts for the other 6 months in the preceding calendar year;

(26) Service performed by an individual as a home stitcher as long as that employment is not subject to federal unemployment tax;

(27) Service performed by a person licensed as a guide as required by Title 12, section 12853, as long as that employment is not subject to federal unemployment tax;

(28) Service performed by a direct seller as defined in 26 United States Code, Section 3508(b)(2). This subparagraph does not include a person selling major improvements or renovations to the structure of a home, business or property;

(29) Service performed by lessees of taxicabs, as long as that employment is not subject to federal unemployment tax. This subparagraph may not be construed to affect a determination regarding a lessee's status as an independent contractor for workers' compensation purposes;

(30) Service provided by a dance instructor to students of a dance studio when there is a contract between the instructor and the studio under which the instructor's services are not offered exclusively to the studio, the studio does not control the scheduling of the days and times of classes other than beginning and end dates, the instructor is paid by the class and not on an hourly or salary basis, the compensation rate is the result of negotiation between the instructor and the studio and the instructor is given the freedom to develop the curriculum;

(31) Service performed by participants enrolled in programs or projects under the national service laws including the federal National and Community Service Act of 1990, as amended, 42 United States Code, Section 12501 et seq. and the federal Domestic Volunteer Service Act, as amended, 42 United States Code, Section 4950 et seq.;

(32) Service of an author in furnishing text or other material to a publisher who:

(a) Does not control the author's work except to propose topics or to edit material submitted;

(b) Does not restrict the author from publishing elsewhere;

(c) Furnishes neither a place of employment nor equipment for the author's use;

(d) Does not direct or control the time devoted to the work; and

(e) Pays only for material that is accepted for publication.

This exception does not apply if the employment is subject to federal unemployment tax;

(33) Service provided by an owner-operator of a truck or truck tractor while it is leased to a motor carrier, as defined in 49 Code of Federal Regulations, Section 390.5 (2000), as long as that employment is not subject to federal unemployment tax; and

(34) Service performed by a professional investigator, as defined in Title 32, section 8103, subsection 5, as long as that employment is not subject to federal unemployment tax and the following requirements are met:

(a) There is a written contract between the professional investigator and the party requesting services;

(b) The professional investigator offering the services operates independently of the party requesting services, except for the time frame and quality of finished work as specified in the contract;

(c) Compensation for services is negotiated between the 2 parties and is paid for each service performed; and

(d) The party requesting services furnishes neither equipment nor the place of employment to the professional investigator.

**Sec. A-28. 26 MRSA §1043, sub-§19, ¶C,** as amended by PL 1987, c. 338, §1, is further amended to read:

C. With respect to weeks of unemployment beginning on or after January 1, 1978, wages for insured work ~~shall include~~ includes wages paid for previously uncovered services. For the purposes of this paragraph, the term "previously uncovered services" means services:

(1) ~~Which That~~ were not employment as defined in subsection 11, and were not services covered pursuant to section 1222, at any time during the one-year period ending December 31, 1975; and

(2) ~~Which That~~:

(a) Are agricultural labor, as defined in subsection 11, paragraph A-2 or domestic service as defined in subsection 11, paragraph A-3; or

(b) Are services performed by an employee of this State or a political subdivision thereof, or any of their instrumentalities as provided in subsection 11, paragraph A-1, subparagraph (1), or by an employee of a nonprofit educational institution ~~which that~~ is not an institution of higher education, as provided in subsection 11, paragraph F, subparagraph ~~(24)~~ (17), division (i);

except to the extent that assistance under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 was paid on the basis of such services;

**Sec. A-29. 26 MRSA §1221-B, sub-§1, ¶B,** as enacted by PL 2001, c. 381, §1, is amended to read:

B. "Employment" includes service performed in the employ of an Indian tribe, as defined in the Federal Unemployment Tax Act, 26 United States Code, Chapter 23, Section 3306(u), 2000, referred to in this section as "FUTA," as long as that service is excluded from the definition of employment as defined in 26 United States Code, Section 3306(c) solely by reason of 26 United States Code, Section 3306(c)(7) and is not otherwise excluded from the definition of employment under this chapter. For purposes of this paragraph, the exclusions from employment in section 1043, subsection 11, paragraph F, subparagraph ~~(24)~~ (17), division (i), subdivisions (i), (ii), (iii), (iv) and (v) are applicable to services performed in the employ of an Indian tribe.

**Sec. A-30. 29-A MRSA §2054, sub-§1, ¶B,** as amended by PL 2009, c. 317, Pt. F, §1 and c. 421, §4, is repealed and the following enacted in its place:

B. "Authorized emergency vehicle" means any one of the following vehicles:

(1) An ambulance;

(2) A Baxter State Park Authority vehicle operated by a Baxter State Park ranger;

(3) A Bureau of Marine Patrol vehicle operated by a coastal warden;

(4) A Department of Conservation vehicle operated by a forest ranger;

(5) A Department of Conservation vehicle used for forest fire control;

(6) A Department of Corrections vehicle used for responding to the escape of or performing the high-security transfer of a prisoner, juvenile client or juvenile detainee;

(7) A Department of Inland Fisheries and Wildlife vehicle operated by a warden;

(8) A Department of Public Safety vehicle operated by a police officer appointed pursuant to Title 25, section 2908, a state fire investigator or a Maine Drug Enforcement Agency officer;

(9) An emergency medical service vehicle;

(10) A fire department vehicle;

(11) A hazardous material response vehicle, including a vehicle designed to respond to a weapon of mass destruction;

(12) A railroad police vehicle;

(13) A sheriff's department vehicle;

(14) A State Police or municipal police department vehicle;

(15) A vehicle operated by a chief of police, a sheriff or a deputy sheriff when authorized by the sheriff;

(16) A vehicle operated by a municipal fire inspector, a municipal fire chief, an assistant or deputy chief or a town forest fire warden;

(17) A vehicle operated by a qualified deputy sheriff or other qualified individual to perform court security-related functions and services as authorized by the State Court Administrator pursuant to Title 4, section 17, subsection 15;

(18) A Federal Government vehicle operated by a federal law enforcement officer;

(19) A vehicle operated by a municipal rescue chief, deputy chief or assistant chief;

(20) An Office of the Attorney General vehicle operated by a detective appointed pursuant to Title 5, section 202;

(21) A Department of the Secretary of State vehicle operated by a motor vehicle investigator; and

(22) A University of Maine System vehicle operated by a University of Maine System police officer.

**Sec. A-31. 30-A MRSA §5223, sub-§3, ¶D,** as amended by PL 2011, c. 101, §8 and c. 287, §1, is repealed and the following enacted in its place:

D. The aggregate value of municipal and plantation general obligation indebtedness financed by the proceeds from tax increment financing districts within any county may not exceed \$50,000,000 adjusted by a factor equal to the percentage change in the United States Bureau of Labor Statistics Consumer Price Index, United States City Average from January 1, 1996 to the date of calculation.

(1) The commissioner may adopt rules necessary to allocate or apportion the designation of captured assessed value of property within proposed tax increment financing districts to permit compliance with the condition in this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

(2) The acquisition, construction and installation of all real and personal property improvements, buildings, structures, fixtures and equipment included within the development program and financed through municipal or plantation bonded indebtedness must be completed within 8 years of the commissioner's approval of the designation of the tax increment financing district.

**Sec. A-32. 31 MRSA §1677, sub-§2,** as amended by PL 2011, c. 113, Pt. B, §16, is further amended to read:

**2. Party to action.** If a petitioner under subsection 1 is not the limited liability company or foreign limited liability company to whom the record pertains, the petitioner shall make the ~~domestic~~ limited liability company or foreign limited liability company a party to the action. A person aggrieved under subsection 1 may seek the remedies provided in subsection 1 in a separate action against the person required to sign the record or as a part of any other action concerning the limited liability company in which the person required to sign the record is made a party.

**Sec. A-33. 32 MRSA §1102-A,** as amended by PL 2011, c. 272, §§1 to 3 and repealed by c. 286, Pt. F, §5, is repealed.

**Sec. A-34. 32 MRSA §1201-A, sub-§§10 and 11,** as enacted by PL 2011, c. 286, Pt. F, §12, are amended to read:

**10. Pump installers.** A person licensed under chapter 69-C, except that this exception applies only to disconnection and connection of electrical conductors required in the replacement of water pumps of the same or smaller size in residential properties and the installation of new water pumps and associated equipment of 3 horsepower or smaller; ~~or~~

**11. Wastewater treatment plants.** Wastewater treatment plants, as defined in section 4171, and regular employees of wastewater treatment plants making electrical installations in or about wastewater treatment plants; ~~or~~

**Sec. A-35. 32 MRSA §1201-A, sub-§12** is enacted to read:

**12. Incidental work.** Regular employees of an owner or a lessee of real property doing incidental electrical work on that property or incidental electrical work by a person whose occupation involves miscel-

laneous jobs of manual labor. For purposes of this subsection, "incidental electrical work" means minor electrical work, limited to light fixtures and switches, that occurs by chance and that does not require electrical installation calculations.

**Sec. A-36. 32 MRSA §8113, sub-§8,** as amended by PL 2011, c. 366, §44, is further amended to read:

**8. Representations that licensee is sworn peace officer.** Representation by the licensee that suggests, or that would reasonably cause another person to believe, that the licensee is a sworn peace officer of this State, any political subdivision of this State, any other state or the Federal Government; ~~or~~

**Sec. A-37. 32 MRSA §8113, sub-§9,** as enacted by PL 2011, c. 161, §3, is amended to read:

**9. Unpermitted contact with a child.** Contact or communication with a child who has not attained 14 years of age regarding a private investigation if that contact or communication includes conduct with the intent to harass, torment, intimidate or threaten a child;

**Sec. A-38. 33 MRSA §507,** as reallocated by RR 2005, c. 1, §16, is amended to read:

**§507. Disclosure regarding private mortgage insurance**

With respect to a mortgage loan on residential real property for which the processor or underwriter of that loan also engages in the business of private mortgage insurance, a supervised lender, as defined in Title 9-A, section 1-301, subsection 39, or a ~~credit services organization~~ loan broker, as defined in Title 9-A, section 10-102, shall disclose to the loan applicant at the time of application the fact that the processor or underwriter is also in the business of private mortgage insurance. Failure to provide the disclosure required by this section does not annul, alter or affect the validity or enforceability of the mortgage loan.

**Sec. A-39. 34-B MRSA §1207, sub-§1, ¶F,** as amended by PL 2011, c. 420, Pt. C, §6, is further amended to read:

F. Nothing in this subsection precludes the disclosure or use of any information, including recorded or transcribed diagnostic and therapeutic interviews, concerning any client in connection with any educational or training program established between a public hospital and any college, university, hospital, psychiatric or counseling clinic or school of nursing, ~~provided that as long as~~ in the disclosure or use of the information as part of a course of instruction or training program, the client's identity remains undisclosed; and

**Sec. A-40. 34-B MRSA §1207, sub-§1, ¶G,** as amended by PL 2011, c. 347, §9 and repealed by c. 420, Pt. C, §7, is repealed.

**Sec. A-41. 38 MRSA §568-B, sub-§2, ¶E,** as amended by PL 2011, c. 211, §23 and affected by §27 and amended by c. 243, §3, is repealed and the following enacted in its place:

E. To, at such times and in such amounts as it determines necessary, and in consultation with the Finance Authority of Maine, direct the transfer of funds from the Underground Oil Storage Replacement Fund to the Ground Water Oil Clean-up Fund; and

**Sec. A-42. Effective date.** That section of this Part that repeals and replaces the Maine Revised Statutes, Title 38, section 568-B, subsection 2, paragraph E takes effect December 31, 2012.

**Sec. A-43. 38 MRSA §570-H,** as amended by PL 2011, c. 211, §24 and repealed by c. 243, §4, is repealed.

**Sec. A-44. PL 2011, c. 270, §3** is amended to read:

**Sec. 3. Department of Health and Human Services payment reform demonstration project authorized.** Beginning July 1, 2012 and until June 30, 2016, the Department of Health and Human Services may establish a demonstration project to implement payment reform strategies to achieve cost savings within the MaineCare program. The demonstration project must be consistent with the principles for payment reform adopted by the Advisory Council on Health Systems Development in the Maine Revised Statutes, Title 2, ~~former section 104, subsection 11.~~ The demonstration project must also include measurable goals consistent with those principles and include methods for monitoring and reporting. The department may adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**PART B**

**Sec. B-1. 3 MRSA §342, last ¶** is amended to read:

All facilities so provided ~~shall~~ must be properly maintained by the Bureau of ~~Public Improvements~~ General Services.

**Sec. B-2. 3 MRSA §901-A, sub-§2, ¶C,** as enacted by PL 1989, c. 410, §9, is amended to read:

C. The Director of the Bureau of ~~Public Improvements~~ General Services;

**Sec. B-3. 3 MRSA §902-A, sub-§2,** as amended by PL 2001, c. 468, §2, is further amended to read:

**2. Immediate grounds.** The immediate grounds, including Capitol Park, the area bounded on the east by the Kennebec River, on the north by Capitol Street, on the south by Union Street and on the west by State Street, except that the private office of the Governor, at the Governor's discretion, ~~shall be~~ is exempt from this chapter.

A. To ensure that the portion of Capitol Park that is controlled by the City of Augusta remains integrated with the portion of Capitol Park that is controlled by the State, the commission may, in consultation with the City of Augusta, plan for the preservation and development of a unified park area.

B. Any action taken with respect to Capitol Park must be consistent with the plan for Capitol Park developed by the Olmsted Brothers firm in 1920 as revised by the Pressley firm in 1990.

The Bureau of ~~Public Improvements~~ shall ~~General Services~~ may make no architectural, aesthetic or decorative addition, deletion or change to any external or internal part of the State House or its immediate grounds under the jurisdiction of the Legislative Council unless the council has approved the change in writing in conformance with the plan adopted by the council. The Governor ~~shall~~ must be notified before the council votes on any change. The commission may make recommendations to the council in regard to any proposed architectural, aesthetic or decorative addition, deletion or change to the internal or external part of the State House.

**Sec. B-4. 4 MRSA §162**, as amended by PL 2009, c. 415, Pt. B, §1, is further amended to read:

**§162. Place for holding court; suitable quarters**

In each division, the place for holding court must be located in a state, county or municipal building designated by the Chief Judge, who, with the advice and approval of the Bureau of ~~Public Improvements~~ General Services, is empowered to negotiate on behalf of the State, the leases, contracts and other arrangements the Chief Judge considers necessary, within the limits of the budget and the funds available, to provide suitable quarters, adequately furnished and equipped for the District Court in each division.

The facilities of the Superior Court in each county when that court is not in session must be available for use by the District Court of that division in which such facilities are located. Arrangements for such use must be made by the Chief Judge.

If the Chief Judge is unable to negotiate the leases, contracts and other arrangements as provided in ~~the preceding paragraph~~ this section, the Chief Judge may, with the advice and approval of the Bureau of ~~Public Improvements~~ General Services, negotiate on behalf of the State, the leases, contracts and other ar-

rangements the Chief Judge considers necessary, within the limits of the budget and funds available, to provide suitable quarters, adequately furnished and equipped for the District Court in privately owned buildings.

**Sec. B-5. 5 MRSA §7-A, sub-§1, ¶D**, as enacted by PL 1989, c. 501, Pt. P, §6, is amended to read:

D. A vehicle may be temporarily garaged off state grounds when certified by the Bureau of ~~Public Improvements~~ General Services that there is no space available on state grounds or certified by the Department of Public Safety that the space available does not provide adequate protection for the vehicle; or

**Sec. B-6. 5 MRSA §304**, as amended by PL 1975, c. 647, §5, is further amended to read:

**§304. Approval of construction projects**

~~No~~ A construction ~~projects shall~~ project may not be initiated in the Capitol Area for the development of state buildings and grounds following the adoption of the plan or amendments and additions thereto by the Legislature without the approval of the Legislative Council, the Bureau of ~~Public Improvements~~ General Services and the commission of the proposals and plans for ~~such projects~~ the project.

**Sec. B-7. 5 MRSA §1507, sub-§3**, as repealed and replaced by PL 1975, c. 771, §67, is amended to read:

**3. Purchase of real estate.** The Governor may allocate funds from such account to provide funds in accordance with Title 1, section 814. Allocations may be made from this fund by the Governor only upon the written request of the Director of the Bureau of ~~Public Improvements~~ General Services and upon consultation with the State Budget Officer.

**Sec. B-8. 5 MRSA §1665, sub-§5**, as enacted by PL 1991, c. 376, §20 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

**5. Maine Community College System; public improvements budgetary estimate.** In accordance with Title 20-A, section 12706, subsection 4-A, the Board of Trustees of the Maine Community College System shall submit a prioritized public improvements budget estimate to the State Budget Officer in the manner prescribed in subsection 1. This budgetary estimate must be separate from any prioritized public improvements budget developed by the Bureau of ~~Public Improvements~~ General Services for the departments and agencies of State Government. This estimate must be prepared by project title in descending order of priority including for each project the total amount of the request, the accumulative total request and the type of capital improvement.

**Sec. B-9. 5 MRSA §1742-C, sub-§1**, as enacted by PL 1989, c. 483, Pt. A, §16, is amended to read:

**1. University of Maine System.** Notwithstanding section 1742, the Bureau of ~~Public Improvements~~ General Services is not required to provide services to the University of Maine System.

**Sec. B-10. 5 MRSA §1742-C, sub-§3**, as enacted by PL 1991, c. 376, §22 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

**3. Public improvements budget submission; Maine Community College System.** In accordance with section 1665, subsection 5 and Title 20-A, section 12706, subsection 4-A, the Bureau of ~~Public Improvements~~ General Services shall advise and assist the Maine Community College System in developing a prioritized public improvements budget for the system. This budget must be presented to the Governor and the Legislature as separate from the public improvements budget developed by the Bureau of ~~Public Improvements~~ General Services for the departments and agencies of State Government.

**Sec. B-11. 5 MRSA §1743-A, first ¶**, as amended by PL 2011, c. 352, §1, is further amended to read:

Any contract for the construction, major alteration or repair of school buildings involving a total cost in excess of \$250,000, except contracts for professional, architectural and engineering services and contracts for energy conservation services in accordance with Title 20-A, section 15915, must be awarded by competitive bids. The school district directors, school committee, building committee or whatever agency has responsibility for the construction, major alteration or repair shall, after consultation with the Director of the Bureau of ~~Public Improvements~~ General Services, seek sealed proposals. Sealed proposals must be addressed to the responsible agency and must remain sealed until publicly opened in the presence of the responsible agency or a committee ~~thereof~~ of the responsible agency at such time as the responsible agency may direct. Competitive bids may be waived in individual cases involving unusual circumstances with the written approval of the Director of the Bureau of ~~Public Improvements~~ General Services and the Commissioner of Education.

**Sec. B-12. 5 MRSA §1745**, as amended by PL 1989, c. 483, Pt. A, §18, is further amended to read:

**§1745. Advertisement for sealed proposals; bonds**

The trustees, commissioners or other persons in charge of any public improvement in an amount in excess of \$100,000, which is subject to chapters 141 to 155 shall, after consultation with the Director of the Bureau of ~~Public Improvements~~ General Services,

advertise for sealed proposals not less than 2 weeks in such papers as the Governor may direct. The last advertisement ~~shall~~ must be at least one week before the time named ~~therein~~ in the advertisement for the closing of such bids. Sealed proposals for any public improvements ~~shall~~ must be addressed to the trustees, commissioners or such other persons having the construction in charge and ~~shall~~ remain sealed until opened at the time and place stated in the advertisement or as the Governor may direct.

If a public improvement has been properly advertised in accordance with this chapter, and no proposals have been received from a qualified person who has been bonded in accordance with the requirements of Title 14, section 871, the Director of the Bureau of ~~Public Improvements~~ General Services is authorized to accept proposals from persons that are not bonded in accordance with the requirements of Title 14, section 871. The Director of the Bureau of ~~Public Improvements~~ General Services is authorized to set reasonable standards to ensure the interest of the State in the consideration of persons mentioned in this paragraph.

**Sec. B-13. 5 MRSA §1746, last ¶**, as enacted by PL 1989, c. 483, Pt. A, §19, is amended to read:

The Director of the Bureau of ~~Public Improvements~~ General Services may approve contracts with a provision for daily financial incentive for projects completed before the scheduled date when it can be demonstrated that the early completion will result in a financial savings to the owner or to the State. The financial incentive may not be greater than the projected daily rate of savings to the owner or the State.

**Sec. B-14. 5 MRSA §1752**, as enacted by PL 1989, c. 501, Pt. P, §15, is amended to read:

**§1752. Centrally leased space and food vending**

The Bureau of ~~Public Improvements~~ General Services may establish a dedicated revenue account for the management of space leased by the bureau for state offices and facilities. Charges levied to state agencies for centrally leased space ~~shall~~ must be deposited to the dedicated revenue account. A dedicated revenue account may be established for operations related to food vending services.

**Sec. B-15. 5 MRSA §1762-A, first and last ¶¶**, as enacted by PL 1991, c. 246, §1, are amended to read:

After January 1, 1992, unless otherwise required by law, or for reasons of health or safety, the Bureau of ~~Public Improvements~~ General Services and the following departments and agencies may not purchase or install any faucet, shower head, toilet or urinal that is not a low-flow faucet, a low-flow shower head, a water-saving toilet or a water-saving urinal:

By January 1, 1992, the Bureau of ~~Public Improvements~~ General Services shall adopt rules defin-

ing a "low-flow faucet," a "low-flow shower head," a "water-saving toilet" and a "water-saving urinal" that minimize water use to the maximum extent economically and technologically feasible.

**Sec. B-16. 5 MRSA §1766, first and 4th ¶¶**, as enacted by PL 1983, c. 803, are amended to read:

For the purposes of the installation, development or operation of any energy production improvement at or in connection with a state facility, and ~~not with- standing notwithstanding~~ any other provision of law, any department or agency of the State, subject to approval of the Bureau of ~~Public Improvements~~ General Services, may enter into an agreement with a private party under which the private party may, for consideration, lease or otherwise acquire property interest, exclusive of ownership in fee, in land, buildings or other existing heating facilities and right of access thereto; ~~provided that as long as~~ any improvement to the land, buildings or other existing heating facility installed, erected, owned, developed or operated by the private party utilizes biomass, solid waste or some combination of biomass and solid waste for at least 50% of its total energy input. The duration of the agreement ~~shall~~ may not exceed 20 years.

Any department or agency of the State, subject to approval by the Bureau of ~~Public Improvements~~ General Services, at the termination of the agreement with the private party pursuant to this section, may acquire, operate and maintain the improvement, may renew the agreement with the private party or may make an agreement with another private party to operate and maintain the improvement.

**Sec. B-17. 5 MRSA §1768**, as enacted by PL 1991, c. 246, §2 and c. 481, §1 and corrected by RR 1991, c. 1, §6, is amended to read:

**§1768. Shared savings program; state agencies**

The Bureau of ~~Public Improvements~~ General Services shall develop an energy efficiency incentive program in which an eligible department or agency of the State may retain a portion of any first-year energy cost savings demonstrably attributable to energy efficiency improvements undertaken by that department or agency. A condition of the program is that the portion of energy cost savings not retained by the department or agency must be credited to the General Fund. The bureau shall submit the proposed program to the joint standing committee of the Legislature having jurisdiction over state and local government matters by January 1, 1992.

**Sec. B-18. 5 MRSA §1769, sub-§2, ¶C**, as enacted by PL 1991, c. 481, §1, is amended to read:

C. The Director of the Bureau of ~~Public Im- provements~~ General Services ensures that consid-

eration is given to minimizing glare and light trespass.

**Sec. B-19. 5 MRSA §1769, sub-§3, ¶B**, as enacted by PL 1991, c. 481, §1, is amended to read:

B. The Director of the Bureau of ~~Public Im- provements~~ General Services determines that there is a compelling safety interest that can not be addressed by any other method.

**Sec. B-20. 20-A MRSA §12706, sub-§4-A**, as enacted by PL 1991, c. 376, §33, is amended to read:

**4-A. Public improvements budgetary submis- sion.** To prepare and adopt a biennial capital im- provements budget for presentation to the Governor and the Legislature, incorporating all projected expendi- tures and all resources expected or proposed to be made available to fund public improvements, as de- fined by Title 5, section 1741, for the system. In ac- cordance with Title 5, section 1665, subsection 5 and Title 5, section 1742-C, subsection 3, the system's public improvements budget must be developed with the advice and assistance of the Bureau of ~~Public Im- provements~~ General Services and must represent the capital improvement priorities within the system;

**Sec. B-21. 20-A MRSA §15903, sub-§3, ¶A**, as amended by PL 1985, c. 785, Pt. A, §93, is further amended to read:

A. The Bureau of ~~Public Improvements~~ General Services, Department of ~~Administration~~ Adminis- trative and Financial Services;

**Sec. B-22. 20-A MRSA §15908, sub-§§1 and 3**, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

**1. Technical assistance.** In order to provide the technical assistance required by the state board in as- sessing proposed school construction projects, the Bu- reau of ~~Public Improvements~~ General Services may contract for the services of a professional engineer whenever the bureau is not employing qualified per- sonnel on a full-time basis.

**3. Life-cycle costs.** The department and the Bu- reau of ~~Public Improvements~~ General Services may not approve the plans and specifications of a project ~~which that~~ does not meet the requirements of Title 5, chapter 153, subchapter ~~1-A~~ 1-A.

**Sec. B-23. 20-A MRSA §15910, sub-§4**, as enacted by PL 1981, c. 693, §§5 and 8 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

**4. Time of signing.** A school administrative unit may not sign a contract for construction or begin con- struction until the final plans and specifications have been approved by the commissioner, the Bureau of ~~Public Improvements~~ General Services, the Depart-

ment of Health and Human Services and the State Fire Marshal.

**Sec. B-24. 22 MRSA §8307, sub-§2**, as corrected by RR 2009, c. 2, §62, is amended to read:

**2. Feasibility study of other child care facilities and programs.** Prior to the creation of new or additional state financed or operated child care facilities provided primarily for the benefit of state employees, except the initial facility to be located in the Augusta area, the Office of Child Care Coordination, in cooperation with the Bureau of ~~Public Improvements~~ General Services, shall conduct a feasibility study of the proposed child care facility, which must be located in a state-owned facility or in a facility located conveniently near the workplaces of state employees. This feasibility study, at a minimum, must include:

- A. The location of the site and the reasons justifying the location, including reasons justifying or not justifying using state-owned facilities;
- B. An analysis of the benefits and liabilities of contracting with the private sector to provide child care programs under this section;
- C. An analysis of the benefits and liabilities of State Government operation of child care programs and facilities for children of state employees;
- D. The number and ages of children proposed for the site;
- E. The type of assistance to be made available to children of state employees classified as low-income households;
- F. The types of activities and programs to be provided, including preschool and ~~after-school~~ after-school programs;
- G. A time schedule for the commencement of programs at each facility;
- H. Sources of income, including fees, if any, for funding each facility; and
- I. Any other information ~~deemed~~ determined important by the Office of Child Care Coordination and the Bureau of ~~Public Improvements~~ General Services.

The report required by this subsection must be provided to the joint standing committee of the Legislature having jurisdiction over human resources matters in a timely manner preceding the selection of the site.

**Sec. B-25. 26 MRSA §565-A**, as amended by PL 1991, c. 181, §3, is further amended to read:

**§565-A. Air quality and ventilation; evaluation of buildings; standards**

**1. Advise and propose standards.** The board shall work with the Bureau of ~~Public Improvements~~

General Services with respect to evaluation of indoor air quality and ventilation in public school buildings and buildings occupied by state employees and the preparation of the report pursuant to Title 5, section 1742, subsection 24, paragraph A.

A. The board may advise the Bureau of ~~Public Improvements~~ General Services and propose for consideration by the bureau air quality and ventilation standards that are more stringent than the minimum standards as defined in Title 5, section 1742, subsection 24.

**Sec. B-26. 27 MRSA §452, sub-§3-A**, as enacted by PL 1987, c. 469, §2, is amended to read:

**3-A. Construction.** "Construction" means the construction or renovation of a public building or public facility, the cost of which is at least \$100,000, but does not include repairs or minor alterations. In ~~their~~ its rulemaking and decisions regarding construction projects governed by this Act, the commission ~~shall be~~ is guided by the determinations of the Director of the Bureau of ~~Public Improvements~~ General Services.

**Sec. B-27. 30-A MRSA §4752, sub-§2**, as enacted by PL 1989, c. 48, §§3 and 31, is amended to read:

**2. Land and buildings of political subdivisions.** Each municipality shall report to the Bureau of ~~Public Improvements~~ General Services any municipally owned land or buildings and any land or buildings within the jurisdiction of any other political subdivisions, except school administrative districts, that may be suitable for the construction, reconstruction or rehabilitation of affordable housing for low-income and moderate-income households.

A. School administrative districts shall report to the Bureau of ~~Public Improvements~~ General Services any land and buildings owned by or within the jurisdiction of the district that may be suitable for the construction, reconstruction or rehabilitation of affordable housing for low-income and moderate-income households.

B. The Maine State Housing Authority shall adopt rules under the Maine Administrative Procedure Act, Title 5, chapter 375, ~~which~~ that establish standards by which land and buildings are ~~deemed~~ determined suitable for the construction, reconstruction or rehabilitation of affordable housing for low-income and moderate-income households to be used by municipalities and school administrative districts under this section.

**PART C**

**Sec. C-1. 5 MRSA §3371, sub-§2, ¶J**, as enacted by PL 1999, c. 731, Pt. AAAA, §1 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

J. The administrator of the Maine Fire ~~Training and Education Program~~ Service Institute within the Maine Community College System, or the administrator's designee; and

**Sec. C-2. 5 MRSA §13105, sub-§2, ¶C**, as amended by PL 2005, c. 19, §2, is further amended to read:

C. The development of new commercial products and the fabrication of such products in the State through the Maine Technology Institute under section 15302 and the technology centers under section ~~45324~~ 15322; and

**Sec. C-3. 5 MRSA §15321**, as amended by PL 2009, c. 90, §2 and repealed by c. 369, Pt. A, §19, is repealed.

**Sec. C-4. 5 MRSA c. 407, sub-c. 3** is enacted to read:

### SUBCHAPTER 3

#### TECHNOLOGY CENTERS

##### §15322. Technology centers

**1. Establishment; purpose.** The technology centers, referred to in this section as "the centers," are established. The purpose of the centers is to support early-stage development of technology-based businesses. The self-managed, state-coordinated centers, strategically placed throughout the State, are an integral component of the State's efforts to foster new technology-based businesses. The goals of the centers include the following:

A. The retention of successful start-up businesses in the State;

B. The improvement of opportunities for workers through the creation of technologically advanced jobs; and

C. The encouragement of private-sector initiatives.

**2. Administration.** The following provisions govern the administration of the centers.

A. Each technology center is governed by its own board of directors. Each board of directors shall determine services to be provided pursuant to subsection 3, paragraph C.

B. The Department of Economic and Community Development shall determine assistance criteria and desired program outcomes and establish an application process so that technology centers possessing personnel with applicable skills can be chosen to best deliver services to technology-based entrepreneurs within a respective area.

**3. Technology centers.** The following provisions govern technology centers.

A. A technology center may be incorporated as a nonprofit organization, be part of a nonprofit organization, be incorporated as a for-profit organization or be part of a for-profit organization. The following provisions govern a for-profit technology center.

(1) Services made available to a technology center by the center director must be made available to all clients of a for-profit center.

(2) A for-profit center in a targeted technology may apply for available funding. A for-profit center selected for funding shall accept the funding as a loan that may be paid back in the form of cash, equity or royalties as agreed upon by the for-profit center and the Department of Economic and Community Development.

B. The records and proceedings of the technology centers are public for the purposes of Title 1, chapter 13 except that the following records are designated as confidential for the purposes of Title 1, section 402, subsection 3, paragraph A:

(1) A record obtained or developed by a technology center prior to receipt of a written application or proposal in a form acceptable to the technology center for assistance from the technology center. After receipt by the technology center of the application or proposal, a record pertaining to the application or proposal may not be considered confidential unless it is confidential under another provision of this paragraph;

(2) A peer review or analysis or other document related to the evaluation of a grant application or proposal;

(3) A record that the person, including the technology center, to whom the record belongs or pertains has requested be designated confidential and that the technology center has determined contains proprietary information, trade secrets or commercial or financial information, the release of which could be competitively harmful to the submitter of the information, could impair the technology center's ability in the future to obtain similar necessary information solely through the voluntary provision of such information and could affect other technology center interests, such as program effectiveness and compliance. For purposes of this subparagraph, the following terms have the following meanings.

(a) "Commercial or financial information" means information related to businesses, commerce, trade, employment, profits or finances, including personal finances.

(b) "Trade secret" means a secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort. There must be a direct relationship between the trade secret and the productive process;

(4) A financial statement, credit report or tax return of an individual or other record obtained or developed by the technology center, the disclosure of which would constitute an invasion of personal privacy as determined by the technology center;

(5) A record, including a financial statement or tax return obtained or developed by the technology center in connection with a monitoring or servicing activity of the technology center, pertaining to financial assistance provided or to be provided by or with the assistance of the technology center;

(6) A record obtained or developed by the technology center that contains an assessment by a person who is not employed by the technology center of the creditworthiness or financial condition of a person or project;

(7) A financial statement or business and marketing plan in connection with a project receiving or to receive financial or other assistance from the technology center, if the person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and

(8) Those employee personnel records made confidential pursuant to section 957, subsection 5 and section 17057.

C. The technology centers shall provide support for early-stage technology-based businesses in the State through at least one of the following mechanisms:

(1) One-on-one sessions;

(2) Peer networks;

(3) Classroom training on subjects unique to technology commercialization and the management of high-growth enterprises;

(4) Mentor programs that link senior technology executives with entrepreneurs; and

(5) Networking opportunities.

4. Funding. The following provisions govern funding for technology centers.

A. Funding for the technology centers must be commensurate with the level of assistance provided.

B. All funding must be provided on a competitive basis.

5. Relationship with academic institution. A technology center shall establish a relationship with at least one academic institution in this State. The Department of Economic and Community Development shall establish guidelines for such a relationship and determine whether a technology center has met the requirements of this subsection.

6. Rule-making authority. The Department of Economic and Community Development may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

**Sec. C-5. 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.

**Sec. C-6. 38 MRSA §435, 3rd ¶**, as amended by PL 1989, c. 403, §3, is further amended to read:

Zoning ordinances adopted pursuant to this article need not depend upon the existence of a zoning ordinance for all of the land and water areas within a municipality, notwithstanding Title 30-A, section 4503-4352, as it is the intention of the Legislature to recognize that it is reasonable for municipalities to treat shoreland areas specially and immediately to zone around water bodies rather than to wait until such time as zoning ordinances may be enacted for all of the land within municipal boundaries.

**Sec. C-7. 38 MRSA §1451, sub-§3-A**, as amended by PL 1993, c. 664, §13, is repealed.

**PART D**

**Sec. D-1. 2 MRSA c. 5**, as amended, is repealed.

**Sec. D-2. 7 MRSA §1017, sub-§4, ¶A**, as amended by PL 2007, c. 499, §1, is further amended to read:

A. The Commissioner of Agriculture, Food and Rural Resources or the commissioner's agent, upon notification by producers of insufficient or no payment, shall immediately investigate the complaint and shall, in a manner consistent with the provisions of the Maine Administrative Procedure Act as to adjudicatory proceedings, hold a hearing, unless such hearing is waived by the processor, dealer, broker, agent or retailer against whom the charge has been made. The processor, dealer, broker, agent or retailer accused of nonpayment shall provide the commissioner with a copy of the contract, if any, and all other materials and information to enable the commissioner to carry out the provisions of this section. Upon finding after investigation that the processor, dealer, broker, agent or retailer has violated the contract, express or implied, the commissioner may recover the proceeds of the bond required by section 1015 and apply those proceeds against the amounts owed producers. In the event the bond proceeds are inadequate to cover the debts owed producers, the commissioner shall require the processor, dealer, broker, agent or retailer to post an additional bond sufficient to cover the remaining debt owed to the producer or producers.

- (1) The commissioner, after determination upon a hearing of insufficient payment or nonpayment of debts owed to a producer, may require the licensee to formulate a schedule of payments to the producer that is satisfactory to the commissioner. The schedule of payments may not exceed a 30-day period.
- (2) The licensee, who after a hearing is determined to be in default of payment to a producer, shall submit a payment schedule to the commissioner within one week from the commissioner's request for a payment schedule. In the event that the schedule of payment is not satisfactory to the commissioner, the commissioner shall establish the schedule of payment not to exceed a 30-day period.
- (3) The commissioner shall file a complaint with the District Court seeking to suspend the license of any licensee who fails to conform to the payment schedule established in this section until the producer is paid the total claim to which the producer is entitled.
- (4) Upon the filing of a complaint by the commissioner in the District Court, the licensee shall post a bond sufficient to cover the total claim owed the producer on the date on which the complaint is filed. The bond re-

quired for an appeal procedure may be waived by the District Court in the event that the bond required ~~in paragraph A~~ by the commissioner under section 1015 or this paragraph is valid and sufficient to cover the total claim owed the producer.

(5) Nothing in this section may be construed to prohibit a producer from seeking redress for insufficient payment or nonpayment from licensees in any court or in accordance with any federal procedure established to obtain redress.

**Sec. D-3. 11 MRSA §3-1301**, as enacted by PL 1993, c. 293, Pt. A, §2, is amended to read:

**§3-1301. Person entitled to enforce instrument**

"Person entitled to enforce" an instrument means:

- (1). The holder of the instrument;
- (2). A nonholder in possession of the instrument who has the rights of a holder; or
- (3). A person not in possession of the instrument who is entitled to enforce the instrument pursuant to section 3-1309 or 3-1418, subsection (4). ~~A person may be a person entitled to enforce the instrument even though the person is not the owner of the instrument or is in wrongful possession of the instrument.~~

A person may be a person entitled to enforce the instrument even though the person is not the owner of the instrument or is in wrongful possession of the instrument.

**Sec. D-4. 18 MRSA §1655**, as amended by PL 2003, c. 20, Pt. T, §11, is repealed.

**Sec. D-5. 20-A MRSA §1465, sub-§3**, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

**3. Referendum for a school administrative unit to join an existing regional school unit.** The municipal officers of each municipality ~~in a proposed reorganized that is a member of a school administrative unit that is proposing to join a regional school unit~~ shall place a warrant article substantially as follows on the ballot of a municipal referendum in accordance with the referendum procedures applicable to the school administrative unit of which the municipality is a member.

"Article: Do you favor approving the school reorganization plan prepared by the (insert name) Reorganization Planning Committee for school administrative unit (insert name of affected school administrative unit) to join the regional school unit (name of regional school unit), with an effective date of (insert date)?

Yes No"

The following statement must accompany the article:

"Explanation:

A "YES" vote means that you approve of the (municipality or school administrative unit) joining the proposed regional school unit. The financial penalties under the Maine Revised Statutes, Title 20-A, section 15696 to the existing school administrative unit will no longer apply to the proposed regional school unit."

**Sec. D-6. 20-A MRSA §1465, sub-§3**, as amended by PL 2011, c. 251, §5 and affected by §12, is further amended to read:

**3. Referendum for a school administrative unit to join an existing regional school unit.** The municipal officers of each municipality ~~in a proposed reorganized~~ that is a member of a school administrative unit that is proposing to join a regional school unit shall place a warrant article substantially as follows on the ballot of a municipal referendum in accordance with the referendum procedures applicable to the school administrative unit of which the municipality is a member.

"Article: Do you favor approving the school reorganization plan prepared by the (insert name) Reorganization Planning Committee for school administrative unit (insert name of affected school administrative unit) to join the regional school unit (name of regional school unit), with an effective date of (insert date)?

Yes No"

**Sec. D-7. 20-A MRSA §1465, sub-§4**, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

**4. Referendum on the admission of an additional school administrative unit to an existing regional school unit.** If the vote to join a regional school unit under subsection 3 was in the affirmative, the existing regional school unit shall ~~eat~~ conduct a regional school unit referendum to vote on the following article.

"Article: Do you favor approving the school reorganization plan prepared by the (insert name) Reorganization Planning Committee for school administrative unit (insert name of affected school administrative unit) to join the regional school unit (name of regional school unit), with an effective date of (insert date)?

Yes No"

The following statement must accompany the article:

"Explanation:

A "YES" vote means that you approve of the (municipality or school administrative unit) joining the proposed regional school unit. The financial penalties under the Maine Revised Statutes, Title 20-A, section 15696 to the exist-

ing school administrative unit will no longer apply to the proposed regional school unit."

**Sec. D-8. 20-A MRSA §1465, sub-§4**, as amended by PL 2011, c. 251, §6 and affected by §12, is further amended to read:

**4. Referendum on the admission of an additional school administrative unit to an existing regional school unit.** If the vote to join a regional school unit under subsection 3 was in the affirmative, the existing regional school unit shall ~~eat~~ conduct a regional school unit referendum to vote on the following article.

"Article: Do you favor approving the school reorganization plan prepared by the (insert name) Reorganization Planning Committee for school administrative unit (insert name of affected school administrative unit) to join the regional school unit (name of regional school unit), with an effective date of (insert date)?

Yes No"

**Sec. D-9. 22 MRSA §2500-A, sub-§1**, as enacted by PL 2009, c. 395, §7 and affected by §8, is amended to read:

**1. Caloric information.** A chain restaurant shall state on a food display tag, menu or menu board the total amount of calories per serving of each food and beverage item listed for sale on the food display tag, menu or menu board. The statement of calories required in this subsection must be:

- A. Clear and conspicuous;
- B. Adjacent to or in close proximity and clearly associated with the item to which the statement refers; and
- C. Printed in a font and format at least as prominent in size and appearance as the name or the price of the item to which the statement refers; and
- D. ~~As it pertains to beer, wine and spirits must also meet the requirements of subsection 6.~~

As the statement of calories pertains to beer, wine and spirits, the statement must also meet the requirements of subsection 6.

**Sec. D-10. 32 MRSA §6210**, as amended by PL 2009, c. 112, Pt. A, §12, is further amended to read:

**§6210. Meetings; chair; quorum**

The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~Five members~~ A majority of the board ~~constitute~~ constitutes a quorum.

**Sec. D-11. 32 MRSA §8105, sub-§7-A, ¶B,** as amended by PL 2011, c. 366, §32, is further amended to read:

B. Has been employed for a minimum of 3 years as a member of an investigative service of the United States or as a sworn member of a branch of the United States Armed Forces or a federal investigative agency. For purposes of this paragraph, "a member of an investigative service of the United States" means a full-time federal investigator or detective of the United States Armed Forces;

**Sec. D-12. Resolve 2007, c. 91, §9** is amended to read:

**Sec. 9. Director of Bureau of Parks and Lands authorized, but not directed, to convey certain land in Jay, Franklin County. Resolved:** That the Director of the Bureau of Parks and Lands within the Department of Conservation may by quitclaim deed without covenant and on such terms and conditions as the director may direct convey to Taylor Made Homes, Inc., and its successors or assigns, an easement to cross a state-owned recreational trail for the purposes of providing motor vehicle access and aboveground or below ground utilities to benefit the properties described in a survey labeled Plan of Look Brook Estates, made for Polar Enterprises, compiled by M.S.B. Associates, Inc., and recorded in the Franklin County Registry of Deeds on March 15, 1984 in Plan Book Page P-436. The trail crossing easement authorized under this section is approximately 50 feet wide and located approximately 360 feet west of the trail crossing described in section 8. The easement must approximate the location and dimensions of the western trail crossing depicted in the recorded plan for Look Brook Estates and with a length of ~~173.97~~ 128.37 feet on the east side and ~~128.37~~ 173.97 feet on the west side. The parties to the conveyance authorized in this section may by mutual agreement alter the exact location and alignment of the easement within the plan area based on engineering and safety considerations; and be it further

#### PART E

**Sec. E-1. 10 MRSA §9903, sub-§1, ¶B,** as enacted by PL 2011, c. 622, §1, is amended to read:

B. Unemployment insurance; taxes or fees or workers' compensation insurance taxes or fees; and

**Sec. E-2. Retroactivity.** That section of this Part that amends the Maine Revised Statutes, Title 10, section 9903, subsection 1, paragraph B applies retroactively to April 12, 2012.

#### PART F

**Sec. F-1. 12 MRSA §6743,** as amended by PL 2003, c. 452, Pt. F, §21 and affected by Pt. X, §2 and c. 520, §9, is further amended to read:

##### §6743. Closed areas

**1. Mahogany quahogs from closed areas.** A person may not:

A. Fish for or take ~~quahogs, including~~ mahogany quahogs; from an area closed ~~by regulation pursuant to section 6172;~~ or

B. Possess, ship, transport or sell ~~quahogs, including~~ mahogany quahogs; taken from an area closed ~~by regulation pursuant to section 6172.~~

**2. Washing or holding in closed areas.** A person may not:

A. Wash, hold or keep mahogany quahogs in an area closed ~~by regulation pursuant to section 6172;~~ or

B. Possess, ship, transport or sell mahogany quahogs washed, held or kept in an area closed ~~by regulation pursuant to section 6172.~~

**3. Exception.** This section does not apply to the taking of mahogany quahogs under the authority of section 6856.

**Sec. F-2. 12 MRSA §6747, sub-§1,** as enacted by PL 2003, c. 452, Pt. F, §22 and affected by Pt. X, §2, is amended to read:

**1. Taking from closed areas.** A person may not:

A. Fish for or take mussels from an area closed ~~by regulation pursuant to section 6172;~~ or

B. Possess, ship, transport or sell mussels taken from an area closed ~~by regulation pursuant to section 6172.~~

**Sec. F-3. 12 MRSA §6747, sub-§2,** as repealed and replaced by PL 2003, c. 452, Pt. F, §22 and affected by Pt. X, §2, is amended to read:

**2. Washing or holding in closed areas.** A person may not:

A. Wash, hold or keep mussels in an area closed ~~by regulation pursuant to section 6172;~~ or

B. Possess, ship, transport or sell mussels washed, held or kept in an area closed ~~by regulation pursuant to section 6172.~~

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

Effective May 22, 2012.

**CHAPTER 692**  
**S.P. 252 - L.D. 849**

**An Act To Provide Tax Relief  
for Maine's Citizens by  
Reducing Income Taxes**

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

**Sec. 1. 5 MRSA §1518-A**, as enacted by PL 2005, c. 2, Pt. A, §4 and affected by §14, is amended to read:

**§1518-A. Tax Relief Fund for Maine Residents**

**1. Tax Relief Fund for Maine Residents.** There is created the Tax Relief Fund for Maine Residents, referred to in this section as "the fund," which must be used to provide tax relief to residents of the State. The fund consists of all resources transferred to the fund under subsection 4 and section 1536 and other resources made available to the fund. The fund must be used to reduce the individual income tax rates to 4% pursuant to subsection 1-A.

**1-A. Implementation.** By September 1, 2014 and annually thereafter, if the State Controller determines that the benefits required under the Circuit-breaker Program under Title 36, chapter 907 have been fully funded, the State Controller shall inform the State Tax Assessor of the amount available in the fund for the purposes of subsection 1.

A. By November 1st annually, the State Tax Assessor shall calculate the amount by which the income tax rates under Title 36, section 5111, subsections 1-C, 2-C and 3-C may be reduced during the subsequent tax year using the amount available from the fund. Bracket rate reductions must be a minimum of 0.2 percentage points in the first year in which reductions are made and a minimum of 0.1 percentage points in subsequent years. If sufficient funds are not available to pay for the minimum reduction, a rate reduction may not be made until the amount in the fund is sufficient to pay for the reduction. When the amount is sufficient to pay for the reduction, the reduction must first be applied equally to each bracket under Title 36, section 5111, subsections 1-C, 2-C and 3-C until the lower bracket reaches 4%. Funds available from the fund in subsequent years must be applied to reduce the higher bracket rates until there is a single bracket with a rate of 4%, after which future tax relief may be identified.

B. The State Tax Assessor shall provide public notice of new bracket rates calculated under this subsection by November 15th annually.

C. New bracket rates calculated under this subsection apply beginning with tax years that begin on or after January 1st of the calendar year fol-

lowing the determinations made under this subsection.

**2. Nonlapsing fund.** Any unexpended balance in the Tax Relief Fund for Maine Residents may not lapse but must be carried forward to be used pursuant to subsection ~~4~~ 1-A.

**3. Transfer for income tax reduction.** In the fiscal years immediately following the calculation of the income tax rate reduction under subsection 1-A, paragraph A, the State Tax Assessor shall certify to the State Controller the amount of the reduction in General Fund revenue by fiscal year, and the State Controller shall transfer from the fund the amount certified for the reduction in revenue attributable to adjustments made under subsection 1-A to the General Fund unappropriated surplus.

**4. Transfer from General Fund revenue growth.** Beginning with fiscal year 2013-14 and before any other transfers from the General Fund, the State Controller shall transfer to the fund at the close of each fiscal year 40% of the amount by which General Fund budgeted revenue for that fiscal year exceeds the General Fund appropriation limitation calculated for that fiscal year under section 1534.

**Sec. 2. 5 MRSA §1536, sub-§1**, as amended by PL 2011, c. 380, Pt. X, §2, is further amended to read:

**1. Fourth priority reserve.** The State Controller shall, as the 4th priority after the transfers to the State Contingent Account pursuant to section 1507, the transfers to the Loan Insurance Reserve pursuant to section 1511 and the transfers pursuant to section 1522 at the close of each fiscal year, transfer from the unappropriated surplus of the General Fund an amount equal to the amount available from the unappropriated surplus after all required deductions of appropriations, budgeted financial commitments and adjustments considered necessary by the State Controller have been made as follows:

- A. Thirty-five percent to the stabilization fund;
- B. ~~Twenty~~ Thirteen percent to the Retirement Allowance Fund established in section 17251;
- C. ~~Twenty~~ Thirteen percent to the Reserve for General Fund Operating Capital;
- D. ~~Fifteen~~ Nine percent to the Retiree Health Insurance Internal Service Fund established in section 1519 to be used solely for the purpose of amortizing the unfunded actuarial liability associated with future health benefits; ~~and~~
- E. Ten percent to the Capital Construction and Improvements Reserve Fund established in section 1516-A; ~~and~~
- F. Twenty percent to the Tax Relief Fund for Maine Residents established in section 1518-A.

**Sec. 3. Application.** That section of this Act that amends the Maine Revised Statutes, Title 5, section 1536, subsection 1 applies to fiscal years beginning on or after July 1, 2012.

See title page for effective date.

**CHAPTER 693**

**H.P. 664 - L.D. 905**

**An Act Regarding the Distribution and Sale of Spirits**

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

**Sec. 1. 28-A MRSA §83, sub-§5,** as enacted by PL 1997, c. 373, §28, is amended to read:

**5. Investigate and recommend changes.** The alcohol bureau shall carry out a continuous study and investigation of the sale of alcoholic beverages throughout the State and the operation and administration of state activities and recommend to the Commissioner of Administrative and Financial Services any changes in the laws or rules and methods of operation that are in the best interest of the State. By December 1, 2012, the commissioner shall conduct a cost-benefit analysis of the discount price at which agency liquor stores purchase spirits and fortified wine from the State or wholesale liquor provider contracted by the State that includes consideration of how the discount price may be adjusted to allow agency liquor stores' revenue trends to mirror proportionally any upward trend in spirits sales and revenue realized by the State or the State's wholesale liquor provider. The commissioner shall update the cost-benefit analysis at least every 2 years and shall make the analysis available, upon request, to the joint standing committee of the Legislature having jurisdiction over alcoholic beverages matters.

**Sec. 2. 28-A MRSA §83, sub-§5-A** is enacted to read:

**5-A. Sales incentives to agents; rules.** The alcohol bureau may adopt rules to provide for a sales incentive program for agency liquor stores. The alcohol bureau shall consider federal regulations that govern sales incentives for alcoholic beverages and the effect of a sales incentive program on General Fund revenue and pending or existing contracts with a wholesale liquor provider when developing an incentive program. Notwithstanding subsection 1, rules adopted in accordance with this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 3. 28-A MRSA §1651, sub-§2, ¶C,** as amended by PL 2005, c. 539, §9, is further amended to read:

C. Notwithstanding the other provisions of this section, with approval of the Commissioner of Administrative and Financial Services, the alcohol bureau may reduce the price of ~~discontinued items~~ of liquor that, as determined by the alcohol bureau by rule, is unlikely to be sold for the list price. The reduced price may not be less than the actual cost of the discontinued liquor items. Rules adopted to implement this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 4. 28-A MRSA §2074-A** is enacted to read:

**§2074-A. Illegal storage, purchase or sale of spirits by an on-premises licensee; penalty**

A person licensed for the sale of spirits for consumption on the licensed premises who violates section 606, subsection 1-A or violates state rules or federal regulations governing the storage, purchase and sale of spirits, including but not limited to the prohibition against reusing or refilling liquor bottles, and the disposition of empty liquor bottles, is subject to suspension or revocation of the license under chapter 33 as follows.

**1. Suspension of privilege to sell spirits.** A person who commits a violation described by this section is subject to a 90-day suspension for a first offense, a 180-day suspension for a 2nd offense and a one-year suspension for a 3rd or subsequent offense.

**2. Revocation.** The bureau may recommend revocation of a license to sell spirits for consumption on the premises if a licensee commits more than 3 violations as described by this section.

**Sec. 5. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC SAFETY, DEPARTMENT OF Liquor Enforcement 0293**

Initiative: Provides a one-time General Fund appropriation for contracted auditing services of on-premises retailers to ensure compliance with applicable laws and regulations requiring them to purchase spirits from a licensed reselling agent in the State.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$92,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$92,000</b>

See title page for effective date.

**CHAPTER 694**  
**H.P. 1291 - L.D. 1750**

**An Act To Create the Maine  
Board of Tax Appeals**

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

**Whereas,** the Independent Appeals Office, created in Public Law 2011, chapter 439, is to assume the responsibility of overseeing state tax appeals on July 1, 2012; and

**Whereas,** this Act eliminates the Independent Appeals Office and establishes the Maine Board of Tax Appeals in its place and, to comply with federal law, removes provisions that allow for the dissemination of confidential tax information; 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-B, sub-§10** is enacted to read:

**10.**

Maine Board of Tax Appeals      \$100/Day      36 MRSA §151-D

**Sec. 2. 36 MRSA §111, sub-§1-C** is enacted to read:

**1-C. Board.** "Board" means the Maine Board of Tax Appeals as established in Title 5, section 12004-B, subsection 10.

**Sec. 3. 36 MRSA §151,** as amended by PL 2011, c. 380, Pt. J, §5 and repealed and replaced by c. 439, §2 and affected by §12, is repealed and the following enacted in its place:

**§151. Review of decisions of State Tax Assessor**

**1. Petition for reconsideration.** A person who is subject to an assessment by the State Tax Assessor or entitled by law to receive notice of a determination of the assessor and who is aggrieved as a result of that action may request in writing, within 60 days after receipt of notice of the assessment or the determination, reconsideration by the assessor of the assessment or the determination. If a person receives notice of an assessment and does not file a petition for reconsideration within the specified time period, a review is not available in Superior Court or before the board regard-

less of whether the taxpayer subsequently makes payment and requests a refund.

**2. Reconsideration by division.** If a petition for reconsideration is filed within the specified time period, the assessor shall reconsider the assessment or the determination as provided in this subsection.

A. Upon receipt by the assessor, all petitions for reconsideration must be forwarded for review and response to the division in the bureau from which the determination issued.

B. Within 90 days of receipt of the petition for reconsideration by the responding division, the division shall approve or deny, in whole or in part, the relief requested. Prior to rendering its decision and during the 90 days, the division may attempt to resolve issues with the petitioner through informal discussion and settlement negotiations with the objective of narrowing the issues for an appeals conference or court review, and may concede or settle individual issues based on the facts and the law, including the hazards of litigation. By mutual consent of the division and the petitioner, the 90 days may be extended for good cause, such as to allow further factual investigation or litigation of an issue by that or another taxpayer pending in court.

C. If the matter between the division and the petitioner is not resolved within the 90-day period, and any extension thereof, the petitioner may consider the petition for reconsideration denied. The petitioner may not consider the petition for reconsideration denied after either the reconsidered decision has been received by the petitioner or the expiration of 9 years following the filing of the petition for reconsideration, whichever occurs first. A petition for reconsideration considered denied pursuant to this paragraph constitutes final agency action. A petitioner elects to consider the petition for reconsideration denied pursuant to this paragraph by:

(1) For a small claim request, filing a petition for review in Superior Court. For purposes of this subparagraph, "small claim request" has the same meaning as in paragraph E; or

(2) For all other requests:

(a) Filing a statement of appeal with the board; or

(b) Filing a petition for review in Superior Court.

D. A reconsideration by the division is not an adjudicatory proceeding within the meaning of that term in the Maine Administrative Procedure Act.

E. A reconsidered decision rendered on any request other than a small claim request constitutes

the assessor's final determination, subject to review by either the board or directly by the Superior Court. A reconsidered decision rendered on a small claim request constitutes the assessor's final determination and final agency action and is subject to de novo review by the Superior Court. For purposes of this paragraph, "small claim request" means a petition for reconsideration when the amount of tax or refund request in controversy is less than \$5,000.

F. A person who wishes to appeal a reconsidered decision under this section:

(1) To the board must file a written statement of appeal with the board within 60 days after receipt of the reconsidered decision; or

(2) Directly to the Superior Court must file a petition for review in the Superior Court within 60 days after receipt of the reconsidered decision.

If a person does not file a request for review with the board or the Superior Court within the time period specified in this paragraph, the reconsidered decision becomes final and no further review is available.

G. Upon receipt of a statement of appeal or petition for review filed by a person pursuant to paragraph F, the board or Superior Court shall conduct a de novo hearing and make a de novo determination of the merits of the case. The board or Superior Court shall enter those orders and decrees as the case may require. The burden of proof is on the person, except as otherwise provided by law.

**Sec. 4. 36 MRSA §151-B**, as enacted by PL 2011, c. 439, §3 and affected by §12, is repealed.

**Sec. 5. 36 MRSA §151-C, sub-§1**, as enacted by PL 2011, c. 439, §4 and affected by §12, is amended to read:

**1. Appointment.** The Commissioner of Administrative and Financial Services shall hire the taxpayer advocate as an employee of the bureau. The taxpayer advocate need not be an attorney.

**Sec. 6. 36 MRSA §151-D** is enacted to read:

**§151-D. Maine Board of Tax Appeals**

**1. Board established.** The Maine Board of Tax Appeals, established in Title 5, section 12004-B, subsection 10, is established as an independent board within the Department of Administrative and Financial Services and is not subject to the supervision or control of the bureau. The purpose of the board is to provide taxpayers with a fair system of resolving controversies with the bureau and to ensure due process.

**2. Members; appointment.** The board consists of 3 members appointed by the Governor, subject to

review by the joint standing committee of the Legislature having jurisdiction over taxation matters and confirmation by the Legislature. No more than 2 members of the board may be members of the same political party. The Governor shall designate one board member to serve as chair. The Governor may remove any member of the board for cause.

**3. Qualifications.** The members of the board must be residents of this State and must be selected on the basis of their knowledge of and experience in taxation. A member of the board may not hold any elective office or any public office involving assessment of taxes or administration of any of the tax laws of this State. At least one member must be an attorney. No more than 2 members may be attorneys.

**4. Terms.** Members of the board are appointed for terms of 3 years. A member may not serve more than 2 consecutive terms, plus any initial term of less than 3 years. A vacancy must be filled by the Governor for the unexpired term subject to review by the joint standing committee of the Legislature having jurisdiction over taxation matters and confirmation by the Legislature during the next legislative session.

**5. Quorum.** Two members of the board constitute a quorum. A vacancy in the board does not impair the power of the remaining members to exercise all the powers of the board.

**6. Compensation.** A member of the board is entitled to a per diem of \$100. Board members receive reimbursement for their actual, necessary cash expenses while on official business of the board.

**7. Powers and duties.** The board has all powers as are necessary to carry out its functions. The board may be represented by legal counsel. The board may delegate any duties as necessary.

**8. Appeals office.** The board shall establish and maintain an office, referred to in this section as "the appeals office," in the City of Augusta to assist the board in carrying out the purposes of this section. The board may meet and conduct business at any place within the State.

**9. Chief Appeals Officer; appeals office.** The Commissioner of Administrative and Financial Services shall appoint the Chief Appeals Officer to assist the board and manage the appeals office. The Chief Appeals Officer must be a citizen of the United States and have substantial knowledge of tax law. The Chief Appeals Officer is an unclassified employee at salary range 33. The Chief Appeals Officer serves at the pleasure of the commissioner. The Chief Appeals Officer shall:

A. Subject to policies and procedures established by the board, manage the work of the appeals office and hire personnel, including subordinate ap-

peals officers and other professional, technical and support personnel;

B. Assist the board in the development and implementation of rules, policies and procedures to carry out the provisions of this section and section 151 and comply with all applicable laws;

C. Prepare a proposed biennial budget for the board, including supplemental budget requests as necessary, for submission to and approval by the Commissioner of Administrative and Financial Services;

D. Attend all board meetings and maintain proper records of all transactions of the board; and

E. Perform other duties as the board and the Commissioner of Administrative and Financial Services may assign.

**10. Appeals procedures.** Appeals of tax matters arising under this chapter are conducted in accordance with this subsection.

A. If requested by a petitioner in a statement of appeal, the appeals office shall hold an appeals conference to receive additional information and to hear arguments regarding the protested assessment or determination. The board shall set a rate of no more than \$150 as a processing fee for each petition that proceeds to an appeals conference. These fees must be credited to a special revenue account to be used to defray expenses in carrying out this section. Any balance of these fees in the special revenue account does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following years.

B. The appeals office shall provide a petitioner with at least 10 working days' notice of the date, time and place of an appeals conference. The appeals conference may be held with fewer than 10 working days' notice if a mutually convenient date, time and place can be arranged.

C. An appeals officer shall preside over an appeals conference. The appeals officer has the authority to administer oaths, take testimony, hold hearings, summon witnesses and subpoena records, files and documents the appeals officer considers necessary for carrying out the responsibilities of the board.

D. If a petitioner does not include a request for an appeals conference in the statement of appeal, the appeals officer shall determine the matter based on written submissions by the petitioner and the division within the bureau making the original determination.

E. Both a petitioner and the assessor may submit to the appeals officer, whether or not an appeals

conference has been requested, written testimony in the form of an affidavit, documentary evidence and written legal argument and written factual argument. In addition, if an appeals conference is held, both the petitioner and the assessor may present oral testimony and oral legal argument. The appeals officer need not observe the rules of evidence observed by courts, but shall observe the rules of privilege recognized by law. If the appeals officer considers it appropriate, the appeals officer may encourage the petitioner and the assessor to resolve disputed issues through settlement or stipulation. The appeals officer may limit the issues to be heard or vary any procedure adopted for the conduct of the appeals conference if the parties agree to that limitation.

F. Except when otherwise provided by law, a petitioner has the burden of proving, by a preponderance of the evidence, that the assessor has erred in applying or interpreting the relevant law.

G. The appeals officer shall exercise independent judgment. The appeals officer may not have any ex parte communications with or on behalf of any party, including the petitioner, the assessor or any other employee of the Department of Administrative and Financial Services except those employees in the appeals office; however, the appeals officer may have ex parte communication limited to questions that involve ministerial or administrative matters that do not address the substance of the issues or position taken by the petitioner or the assessor.

H. The appeals officer shall prepare a recommended final decision on the appeal for consideration by the board based upon the evidence and argument presented to the appeals officer by parties to the proceeding. The decision must be in written form and must state findings of fact and conclusions of law. The appeals officer shall deliver copies of the recommended final decision to the board.

I. The board shall consider the recommended final decision on a timely basis. The board may not have any ex parte communication with or on behalf of any party, including the petitioner, the assessor or any other employee of the Department of Administrative and Financial Services except those employees in the appeals office; however, the board may have ex parte communication limited to questions that involve ministerial or administrative matters that do not address the substance of the issue or position taken by the petitioner or assessor. After considering the recommended final decision, the board may:

(1) Adopt the recommended final decision as delivered by the appeals officer;

- (2) Modify the recommended final decision;
- (3) Send the recommended final decision back to the same appeals officer, if possible, for the taking of further evidence, for additional consideration of issues, for reconsideration of the application of law or rules or for such other proceedings or considerations as the board may specify; or
- (4) Reject the recommended final decision in whole or in part and decide the appeal itself on the basis of the existing record.

A determination by the board is not an adjudicatory proceeding within the meaning of that term in the Maine Administrative Procedure Act. The decision, as adopted, modified or rejected by the board or appeals officer pursuant to this paragraph is the final administrative decision on the appeal and is subject to de novo review by the Superior Court. Either the taxpayer or the assessor may appeal the decision to the Superior Court and may raise on appeal in the Superior Court any facts, arguments or issues that relate to the final administrative decision, regardless of whether the facts, arguments or issues were raised during the proceeding being appealed, if the facts, arguments or issues are not barred by any other provision of law. The court shall make its own determination as to all questions of fact or law, regardless of whether the questions of fact or law were raised before the division within the bureau making the original determination or before the board. The burden of proof is on the taxpayer.

A person who wishes to appeal a decision adopted under this paragraph to the Superior Court must file a petition for review within 60 days after receipt of the board's decision. If a person does not file a request for review with the Superior Court within the time period specified in this paragraph, the decision becomes final and no further review is available.

Subject to any applicable requirements of the Maine Administrative Procedure Act, the board shall adopt rules to accomplish the purposes of this section. Those rules may define terms, prescribe forms and make suitable order of procedure to ensure the speedy, efficient, just and inexpensive disposition of all proceedings under this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Beginning in 2014 and annually thereafter, the board shall prepare and submit a report by January 1st on the activities of the board to the Governor, the assessor and the joint standing committee of the Legislature having jurisdiction over taxation matters.

**Sec. 7. 36 MRSA §191, sub-§2, ¶C**, as enacted by PL 1977, c. 668, §2, is amended to read:

C. The inspection by the Attorney General of information filed by any taxpayer who has requested review of any tax under this Title or against whom an action or proceeding for collection of tax has been instituted; or the production in court or to the board on behalf of the State Tax Assessor or any other party to an action or proceeding under this Title of so much and no more of the information as is pertinent to the action or proceeding;

**Sec. 8. 36 MRSA §191, sub-§2, ¶UU**, as reallocated by RR 2011, c. 1, §52, is amended to read:

UU. The production in court on behalf of the assessor or any other party to an action or proceeding under this Title, or the production pursuant to a discovery request under the Maine Rules of Civil Procedure or a request under the freedom of access laws, of any reconsideration decision or ~~other document setting forth or discussing the assessor's practice, interpretation of law or application of the law to particular facts~~ advisory ruling issued on or after July 1, 2012, in redacted format so as not to reveal information from which the taxpayer may be identified, except that federal returns and federal return information provided to the State by the Internal Revenue Service may not be disclosed except as permitted by federal law. A person requesting the production of any such document shall pay, at the time the request is made, all direct and indirect costs associated with the redacting of information from which the taxpayer or other interested party may be identified, plus an additional fee of \$100 per request; and

**Sec. 9. 36 MRSA §191, sub-§2, ¶VV**, as allocated by RR 2011, c. 1, §53, is repealed.

**Sec. 10. 36 MRSA §191, sub-§2, ¶WW** is enacted to read:

WW. The disclosure of information by the assessor to the board and the subsequent inspection and disclosure of that information by the board, except that such disclosure is limited to information that is pertinent to an appeal or other action or proceeding before the board.

**Sec. 11. PL 2011, c. 439, §9** is repealed.

**Sec. 12. PL 2011, c. 439, §11** is amended to read:

**Sec. 11. Cost administration.** The Commissioner of Administrative and Financial Services, the State Tax Assessor and the ~~Chief Appeals Officer~~ Maine Board of Tax Appeals established pursuant to the Maine Revised Statutes, Title ~~36~~ 5, section ~~151-B~~ 12004-B, subsection ~~2~~ 10 shall manage the implementation of this Act to ensure that this Act is implemented within existing resources. The following principles govern costs associated with this Act.

1. ~~The Independent Appeals Office Maine Board of Tax Appeals, the Chief Appeals Officer appointed pursuant to Title 36, section 151-D, subsection 9 and the appeals office established in Title 36, section 151-B 151-D may have no greater cost than the appellate division of the Department of Administrative and Financial Services, Bureau of Revenue Services prior to enactment of this Act and all positions within the Independent Appeals Office must have equivalent salary ranges as the positions in the appellate division prior to enactment of this Act.~~ The Commissioner of Administrative and Financial Services shall take any steps necessary to ensure that the total costs associated with the ~~Independent Appeals Office~~ appeals office are no greater than the costs that would have been associated with the appellate division prior to enactment of this Act.

2. The funding associated with the current taxpayer advocate of the Department of Administrative and Financial Services, Bureau of Revenue Services must be used to fund the new taxpayer advocate hired by the Commissioner of Administrative and Financial Services and the new taxpayer advocate must have the same salary range as the current taxpayer advocate. The commissioner shall take any steps necessary to ensure that the costs associated with the new taxpayer advocate do not exceed the costs associated with the current taxpayer advocate prior to enactment of this Act.

~~3. No additional positions within the Department of the Attorney General or the Department of Administrative and Financial Services, Bureau of Revenue Services may be created as a result of this Act.~~

**Sec. 13.** PL 2011, c. 439, §12 is amended to read:

**Sec. 12. Effective date.** This Act takes effect July 1, 2012, ~~except that the Commissioner of Administrative and Financial Services is authorized to hire the Chief Appeals Officer pursuant to the Maine Revised Statutes, Title 36, section 151-B and the taxpayer advocate pursuant to Title 36, section 151-C prior to July 1, 2012 as long as those appointments do not take effect until July 1, 2012.~~

**Sec. 14. Creation of Maine Board of Tax Appeals; elimination of appellate division; transition provisions.** The following provisions govern the elimination of the appellate division within the Department of Administrative and Financial Services, Bureau of Revenue Services and the creation of the Department of Administrative and Financial Services, Maine Board of Tax Appeals, established in the Maine Revised Statutes, Title 5, section 12004-B, subsection 10.

1. The appellate division is eliminated and the Maine Board of Tax Appeals is established on July 1, 2012.

2. The Commissioner of Administrative and Financial Services shall appoint the Chief Appeals Officer under the Maine Revised Statutes, Title 36, section 151-D no later than July 1, 2012.

3. Three authorized positions and any incumbent personnel in the appellate division are transferred to the Maine Board of Tax Appeals. These employees retain all the employee rights, privileges and benefits, including sick leave, vacation leave and seniority, provided under the Civil Service Law, collective bargaining agreements and current state personnel policies.

4. All property and equipment previously belonging to or allocated for the use of the appellate division become the property of the Maine Board of Tax Appeals.

5. Any funds appropriated for use by the appellate division must be transferred to the Maine Board of Tax Appeals.

**Sec. 15. Staggered terms of members of the Maine Board of Tax Appeals.** Notwithstanding the Maine Revised Statutes, Title 36, section 151-D, subsection 4, the terms of the members of the Maine Board of Tax Appeals, established in Title 36, section 151-D, are staggered. Of the initial appointees to the board, the Governor shall designate one to be appointed for one year, one for 2 years and one for 3 years.

**Sec. 16. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF  
Maine Board of Tax Appeals N135**

Initiative: Provides appropriations to fund the Personal Services and related All Other costs of 2 Staff Attorney positions, one Office Associate II position and one Chief Appeals Officer position at the newly created Maine Board of Tax Appeals within the Department of Administrative and Financial Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNCIL	0.000	4.000
Personal Services	\$0	\$353,871
All Other	\$0	\$67,912
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$421,783</b>

**Maine Board of Tax Appeals N135**

Initiative: Provides an allocation to establish an operating account to receive fines imposed by the Maine Board of Tax Appeals to be used to support the expenses of the board.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$45,000
	<hr/>	<hr/>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$45,000

**Revenue Services - Bureau of 0002**

Initiative: Eliminates appropriations for the Personal Services and related All Other costs of 2 Staff Attorney positions, one Office Associate II position and one Public Service Manager II position due to the elimination of the Independent Appeals Office within the Department of Administrative and Financial Services, Bureau of Revenue Services.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	0.000	(4.000)
Personal Services	\$0	(\$353,871)
All Other	\$0	(\$67,912)
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$0	(\$421,783)

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS**

	<b>2011-12</b>	<b>2012-13</b>
GENERAL FUND	\$0	\$0
OTHER SPECIAL REVENUE FUNDS	\$0	\$45,000
	<hr/>	<hr/>
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$45,000

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

Effective May 25, 2012.

**CHAPTER 695  
H.P. 285 - L.D. 359**

**An Act To Authorize a General Fund Bond Issue for Wastewater and Drinking Water Revolving Loan Funds**

**Preamble.** Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14 to

authorize the issuance of bonds on behalf of the State of Maine to provide funds as described in this Act,

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

**Sec. 1. Authorization of bonds.** The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding \$7,925,000 for the purposes described in section 5 of this Act. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds.

**Sec. 2. Records of bonds issued; Treasurer of State.** The Treasurer of State shall ensure that an account of each bond is kept showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

**Sec. 3. Sale; how negotiated; proceeds appropriated.** The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Act. Any unencumbered balances remaining at the completion of the project in this Act lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

**Sec. 4. Interest and debt retirement.** The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity.

**Sec. 5. Disbursement of bond proceeds from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Act must be expended as designated in the following schedule under the direction and supervision of the agencies and entities set forth in this section.

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

Provides funds in the amount of \$3,590,000 over 2 years for the revolving loan fund for drinking water systems, which will make the State eligible to secure federal grants.

Total	\$3,590,000
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**ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

Provides funds in the amount of \$4,335,000 over 2 years for the revolving loan fund for wastewater treatment facilities, which will make the State eligible to secure federal grants.

Total \$4,335,000

**Sec. 6. Contingent upon ratification of bond issue.** Sections 1 to 5 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Act.

**Sec. 7. Appropriation balances at year-end.** At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

**Sec. 8. Bonds authorized but not issued.** Any bonds authorized but not issued within 5 years of ratification of this Act are deauthorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds for an additional amount of time not to exceed 5 years.

**Sec. 9. Referendum for ratification; submission at election; form of question; effective date.** This Act must be submitted to the legal voters of the State at a statewide election held in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor a \$7,925,000 bond issue to be expended over 2 years for revolving loan funds for drinking water systems and for wastewater treatment facilities, which will make the State eligible to secure \$39,625,000 in federal grants?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Act, the Governor shall proclaim the result without delay and this Act becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and

copies of this Act necessary to carry out the purposes of this referendum.

Effective pending referendum.

**CHAPTER 696**

**S.P. 255 - L.D. 852**

**An Act To Authorize a General Fund Bond Issue To Support Maine's Natural Resource-based Economy**

**Preamble.** Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14 to authorize the issuance of bonds on behalf of the State of Maine to provide funds as described in this Act,

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

**Sec. 1. Authorization of bonds.** The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding \$5,000,000 for the purposes described in section 5 of this Act. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds.

**Sec. 2. Records of bonds issued; Treasurer of State.** The Treasurer of State shall ensure that an account of each bond is kept showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

**Sec. 3. Sale; how negotiated; proceeds appropriated.** The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Act. Any unencumbered balances remaining at the completion of the project in this Act lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

**Sec. 4. Interest and debt retirement.** The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity.

**Sec. 5. Disbursement of bond proceeds.** The proceeds of the bonds must be expended as set out

in this Act under the direction and supervision of the Department of Conservation.

1. The proceeds of the bonds for the Land for Maine's Future Board as set out in section 6 must be expended by the Department of Conservation for acquisition of land and interest in land for conservation, water access, outdoor recreation, wildlife or fish habitat, farmland preservation in accordance with the provisions for such acquisitions under the Maine Revised Statutes, Title 5, chapter 353 and working waterfront preservation in accordance with the terms of Public Law 2005, chapter 462, Part B, section 6, including all costs associated with such acquisitions, except that use of the proceeds of these bonds is subject to the following conditions and requirements.

A. Hunting, fishing, trapping and public access may not be prohibited on land acquired with bond proceeds, except to the extent of applicable state, local or federal laws, rules and regulations and except for working waterfront projects and farmland protection projects.

B. Payment from bond proceeds for acquisitions of local or regional significance, as determined by the Land for Maine's Future Board, may be made directly to cooperating entities as defined in Title 5, section 6201, subsection 2 for acquisition of land and interest in land by cooperating entities, subject to terms and conditions enforceable by the State to ensure its use for the purposes of this Act. In addition to the considerations required under Title 5, chapter 353, the board shall give a preference to acquisitions under this paragraph that achieve benefits for multiple towns and that address regional conservation needs including public recreational access, wildlife, open space and farmland.

C. The bond funds expended for conservation, recreation, farmland and water access must be matched with at least \$5,000,000 in public and private contributions. Seventy percent of that amount must be in the form of cash or other tangible assets, including the value of land and real property interest acquired by or contributed to cooperating entities, as defined in Title 5, section 6201, subsection 2, when property interests have a direct relationship to the property proposed for protection, as determined by the Land for Maine's Future Board. The remaining 30% may be matching contributions and may include the value of project-related, in-kind contributions of goods and services to and by cooperating entities.

D. Because portions of the State have deer populations that are struggling and deer wintering habitat protection is vital to the survival and enhancement of these populations, projects that conserve and protect deer wintering areas are considered to have special value and must receive preferential

consideration during scoring of new applications for support under Title 5, section 6200 et seq.

E. To the extent the purposes are consistent with the disbursement provisions in this Act, 100% of the bond proceeds may be considered as state match for any federal funding to be made available to the State.

2. The Department of Conservation and the Department of Inland Fisheries and Wildlife shall take a proactive approach to pursuing land conservation projects that include significant wildlife habitat conservation, including conservation of priority deer wintering areas. Priority deer wintering areas are of at least 500 acres or contiguous with existing conservation land so that the combined acreage constitutes at least 500 acres, have been historically used by deer at some point since 1950 and are capable of providing shelter for deer on the effective date of this Act or within 20 years. The Department of Inland Fisheries and Wildlife shall include in conservation negotiations under this section provisions for the appropriate management of priority deer wintering areas. Land and interest in land purchased by the State that contains wildlife or fish habitat must be managed by the Department of Conservation using protocol provided by the Department of Inland Fisheries and Wildlife, and land and interest in land that is subject to a conservation easement and that contains wildlife or fish habitat must be managed using protocol provided by the Department of Inland Fisheries and Wildlife.

**Sec. 6. Disbursement of bond proceeds from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Act must be expended as designated in the following schedule.

**CONSERVATION, DEPARTMENT OF  
Land for Maine's Future Board**

Provides funds in order to leverage \$5,000,000 in other funds to be used for the acquisition of land and interest in land for conservation; water access, wildlife or fish habitat including deer wintering areas; outdoor recreation, including hunting and fishing; and working farmland preservation and working waterfront preservation.

Total	\$5,000,000
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**Sec. 7. Contingent upon ratification of bond issue.** Sections 1 to 6 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Act.

**Sec. 8. Appropriation balances at year-end.** At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

**Sec. 9. Bonds authorized but not issued.** Any bonds authorized but not issued within 5 years of ratification of this Act are deauthorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds for an additional amount of time not to exceed 5 years.

**Sec. 10. Referendum for ratification; submission at election; form of question; effective date.** This Act must be submitted to the legal voters of the State at a statewide election held in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor a \$5,000,000 bond issue to purchase land and conservation easements statewide from willing sellers for public land and water access, conservation, wildlife or fish habitat and outdoor recreation, including hunting and fishing and deer wintering areas, and to preserve working farmland and working waterfronts to be matched by at least \$5,000,000 in private and public contributions?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Act, the Governor shall proclaim the result without delay and this Act becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purposes of this referendum.

Effective pending referendum.

**CHAPTER 697  
S.P. 282 - L.D. 894**

**An Act To Authorize a General Fund Bond Issue To Invest in Transportation Infrastructure To Meet the Needs of the Business Sector and To Create Jobs**

**Preamble.** Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14 to authorize the issuance of bonds on behalf of the State of Maine to provide funds as described in this Act,

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

**Sec. 1. Authorization of bonds.** The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding \$51,500,000 for the purposes described in section 5 of this Act. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than 10 years from the date of the original issue of the bonds.

**Sec. 2. Records of bonds issued; Treasurer of State.** The Treasurer of State shall ensure that an account of each bond is kept showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

**Sec. 3. Sale; how negotiated; proceeds appropriated.** The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Act. Any unencumbered balances remaining at the completion of the project in this Act lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

**Sec. 4. Interest and debt retirement.** The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity.

**Sec. 5. Disbursement of bond proceeds from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Act must be expended as designated in the following schedule under the direction and supervision of the agencies and entities set forth in this section.

**TRANSPORTATION,  
DEPARTMENT OF**

Provides funds to repair and reconstruct highways and bridges that are considered to be vital to the expansion of business interests by the business and economic development sector and essential to public safety, which will make the State eligible for at least \$72,000,000 in federal matching funds.

Total \$41,000,000

Provides funds to the LifeFlight Foundation for weather observation stations and for helipads in rural communities with a history of high use or in remote locations to improve safety and access to emergency medical services to be matched by at least \$300,000 in funding from local government sources.

Total \$300,000

Provides funds for dredging the established commercial channel at Searsport, which serves the existing port operation at Mack Point, and potential port development on Sears Island, which will make the State eligible for at least \$10,000,000 in federal matching funds.

Total \$3,000,000

Provides funds for material handling equipment for the port at Mack Point to be matched by at least \$2,000,000 from private sources.

Total \$2,000,000

Provides funds for transit buses, which will make the State eligible for at least \$9,000,000 in federal matching funds.

Total \$1,000,000

Provides funds for the Industrial Rail Access Program to be matched by at least \$1,500,000 from private sources.

Total \$1,500,000

Provides funds for warehousing facilities at the port at Eastport.

Total \$1,500,000

Provides funds for aviation facilities, which will make the State eligible for at least \$10,800,000 in federal matching funds.

Total \$1,200,000

**Sec. 6. Consultation with business and economic development sector.** The Department of Transportation shall consult with the business and economic development sector to determine projects of highest priority to the business and economic development sector and create a stakeholder group consisting of municipal officials, highway safety officials and members of the general public to develop a list of highway and bridge projects by level of priority relating to the safety of the general public.

**Sec. 7. Contingent upon ratification of bond issue.** Sections 1 to 6 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Act.

**Sec. 8. Appropriation balances at year-end.** At the end of each fiscal year, all unencumbered appropriation balances representing state money carry

forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

**Sec. 9. Bonds authorized but not issued.**

Any bonds authorized but not issued within 5 years of ratification of this Act are deauthorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds for an additional amount of time not to exceed 5 years.

**Sec. 10. Referendum for ratification; submission at election; form of question; effective date.**

This Act must be submitted to the legal voters of the State at a statewide election held in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor a \$51,500,000 bond issue for improvements to highways and bridges, local roads, airports and port facilities, as well as for funds for rail access, transit buses and the Life-Flight Foundation, which will make the State eligible for at least \$105,600,000 in federal and other matching funds?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Act, the Governor shall proclaim the result without delay and this Act becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purposes of this referendum.

Effective pending referendum.

**CHAPTER 698**

**H.P. 1393 - L.D. 1885**

**An Act To Amend the Laws Pertaining to the Maine Economic Improvement Fund**

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

**Sec. 1. 10 MRSA §948, sub-§1, ¶F**, as amended by PL 1999, c. 401, Pt. AAA, §5, is further amended to read:

F. Providing an annual report to the Governor and the Legislature by January 1st of each regular session of the Legislature setting forth:

- (1) The operations of the fund during the fiscal year;
- (2) The assets and liabilities of the fund at the end of its most recent fiscal year; ~~and~~
- (3) The annual measurable goals and objectives of the fund, as established by the board, and an assessment of the achievement of those goals and objectives. The goals and objectives must include, but may not be limited to, education, research and development; and
- (4) A summary of the research and development projects that have been funded pursuant to paragraph H, including any external funding sources that have been leveraged as a result of these awards;

**Sec. 2. 10 MRSA §948, sub-§1, ¶G**, as repealed and replaced by PL 1997, c. 683, Pt. A, §4, is amended to read:

G. Protecting all intellectual property in accordance with the "University of Maine System Statement of Policy Governing Patents and Copyrights," including, but not limited to, proprietary information contained in proposals, grants, contracts or other legal agreements. Publication of information may be reasonably delayed until appropriate measures have been taken to protect the intellectual property; ~~and~~

**Sec. 3. 10 MRSA §948, sub-§1, ¶H** is enacted to read:

H. Apportioning a minimum percentage of the annual disbursements from the fund among the University of Maine at Augusta, the University of Maine at Farmington, the University of Maine at Fort Kent, the University of Maine at Machias and the University of Maine at Presque Isle to support research and development as follows: beginning July 1, 2013 a minimum of 2.5% and beginning July 1, 2015 a minimum of 3%.

**Sec. 4. Task force established.** The Maine Economic Improvement Fund Task Force, referred to in this section as "the task force," is established to review the Maine Economic Improvement Fund, referred to in this section as "the fund" and recommend any changes necessary to enhance investment in targeted research and development and product innovation and to provide basic investment necessary to ob-

tain matching funds and competitive grants from private and federal sources.

**1. Membership.** The task force consists of 6 members as follows:

- A. One representative of the University of Maine, appointed by the President of the Senate;
- B. One representative of the University of Southern Maine, appointed by the Speaker of the House;
- C. A representative of one of the public university campuses listed in the Maine Revised Statutes, Title 10, section 948, subsection 1, paragraph H, appointed by the President of the Senate;
- D. A representative of one of the public university campuses listed in the Maine Revised Statutes, Title 10, section 948, subsection 1, paragraph H, appointed by the Speaker of the House;
- E. The Chancellor of the University of Maine System or the chancellor's designee; and
- F. The President of the Maine Maritime Academy or the president's designee.

**2. Chair.** After all members of the task force have been named, the task force shall elect one member to serve as chair.

**3. Duties.** The task force shall:

- A. Assess the extent to which past distributions from the fund resulted in the leveraging of external funds, the extent to which research that was funded resulted in long-term, direct applications to enhance the State's economic or commercial capacity and the extent to which research that was funded resulted in advancing a program of successful partnerships and positive economic impact;
- B. Assess the competitive criteria currently used by the fund, review the targeted technologies identified in the Maine Revised Statutes, Title 5, chapter 407 for which funds may be used to perform university-based research and consider options for revising the criteria and targeted technologies to ensure a more equitable distribution of funds; and
- C. Examine the recent fund distributions among the recipients and assess whether revisions to the fund should be made to support the performance of increased research at the University of Maine at Augusta, the University of Maine at Farmington, the University of Maine at Fort Kent, the University of Maine at Machias and the University of Maine at Presque Isle and the performance of research at the Maine Maritime Academy.

**4. Meetings.** The task force shall meet as necessary to complete the assigned duties.

**5. Staffing.** The University of Maine System shall provide staff support to the task force within existing resources.

**6. Compensation.** Members of the task force do not receive compensation for their time, travel or other expenses.

**7. Report.** The task force shall complete its work no later than December 15, 2012 and shall submit its report and recommendations to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters no later than January 8, 2013.

**8. Authority to submit legislation.** Following receipt and review of the report, the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters may submit a bill concerning the subject matter of the report to the First Regular Session of the 126th Legislature.

See title page for effective date.

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## CHAPTER 699

### H.P. 1400 - L.D. 1897

#### An Act Regarding the Issuance of Licenses by the Gambling Control Board and To Establish a Competitive Bidding Process for Future Operation of Slot Machines and Table Games in the State

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

**Sec. 1. 8 MRSA §1011, sub-§2-B** is enacted to read:

**2-B. Licenses for a slot machine facility or casino issued on or after September 1, 2012.** Beginning September 1, 2012, the board may not accept any application for an initial license to operate a slot machine facility or casino or any other gambling facility for which the board has licensing authority where slot machines or table games may be operated; except that the board may accept an application submitted by a federally recognized Indian tribe in the State that was licensed to conduct high-stakes beano at a gaming facility in Washington County as of January 1, 2012 if that tribe is authorized expressly by law to operate slot machines at that gaming facility. This subsection does not apply to a casino licensed for operation in the State as of September 1, 2012.

**Sec. 2. 8 MRSA §1018, sub-§1-A** is enacted to read:

**1-A. Fees for slot machine and casino operator licenses on or after September 1, 2012.** Notwithstanding subsection 1, paragraphs C and C-1, beginning September 1, 2012, an applicant for a slot machine operator license or a casino operator license must pay a \$250,000 nonrefundable privilege fee to be submitted with the application for the license and a minimum license fee, or cash bid if the license is part of a competitive bidding process established by law, of \$5,000,000. This subsection does not apply to a casino licensed for operation in the State as of September 1, 2012.

**Sec. 3. Commission established to develop a competitive bidding process for the operation of additional casinos or slot machine facilities.** Notwithstanding Joint Rule 353, the Commission To Develop a Competitive Bidding Process for the Operation of Additional Casinos or Slot Machine Facilities, known in this section as "the commission," is established as follows.

**1. Membership.** The membership of the commission is as follows:

A. Two Senators who are not enrolled in the same political party and who serve on the joint standing committee of the Legislature having jurisdiction over casino matters appointed by the President of the Senate. The Senators appointed to serve on the commission pursuant to this paragraph continue to serve until the commission has completed its work;

B. Two members of the House of Representatives who are not enrolled in the same political party and who serve on the joint standing committee of the Legislature having jurisdiction over casino matters appointed by the Speaker of the House. The members of the House of Representatives appointed to serve on the commission pursuant to this paragraph continue to serve until the commission has completed its work;

C. One representative from each federally recognized Indian tribe in the State who expresses interest in serving on the commission appointed by the President of the Senate;

D. A representative of charitable nonprofit organizations, as described in the federal Internal Revenue Code of 1986, Sections 501(c)(8) and 501(c)(10), in the State that conduct beano or games of chance appointed by the Speaker of the House;

E. A representative of veterans' service organizations in the State that conduct beano or games of chance appointed by the Speaker of the House;

F. A representative of the harness horse racing industry in the State appointed by the President of the Senate;

G. An operator or representative of a commercial harness horse racing track in the State that is not authorized to operate slot machines appointed by the Speaker of the House;

H. An off-track betting facility operator licensed in the State appointed by the President of the Senate;

I. An operator or representative of each casino licensed in the State appointed by the Speaker of the House;

J. An economist or consultant with experience studying the gambling industry appointed by the President of the Senate;

K. Representatives from 2 groups who represent those who oppose the expansion of gambling in the State, one from a statewide religious organization, appointed by the Speaker of the House;

L. A representative of the agricultural fairs in this State appointed by the President of the Senate; and

M. A representative of the hospitality industry appointed by the Speaker of the House.

**2. Appointments; cochairs.** Appointments to the commission must be made by February 1, 2013. The first-named Senate member and the first-named House of Representatives member are cochairs of the commission.

**3. Commission duties.** The commission shall examine the impact of existing casinos on local economies and the state economy overall and any impacts on other forms of legal gambling conducted within the State. The commission shall examine the impact of the establishment of casinos or similar facilities in the states of New Hampshire and Massachusetts and neighboring provinces in Canada on the state economy and on the revenue generated by existing casinos in the State. The commission shall also gather information to determine the potential market for the establishment of new gambling opportunities in the State. The commission shall consider the feasibility of the licensing of expanded gambling activities by persons or groups who are eligible for existing licenses to conduct games of chance, beano, high-stakes beano, harness horse racing and off-track betting, including but not limited to the operation of slot machines and table games. The commission shall develop recommendations for a competitive bidding process for the privilege to submit an application to the Department of Public Safety, Gambling Control Board for the operation of a slot machine facility or a casino. The recommendation for a competitive bidding process must include a minimum nonrefundable application privilege fee of \$250,000 as provided in the Maine Revised Statutes, Title 8, section 1018, subsection 1-A. The recommendation must also include a minimum cash

bid or license fee of \$5,000,000 in order to submit an application to the Gambling Control Board for an initial license to operate a slot machine facility or a casino except that the commission may recommend a minimum cash bid or license fee in an amount other than \$5,000,000 when a deviation from the \$5,000,000 amount is warranted based on the geography or demographics of the location of a proposed slot machine facility or casino or the size of the proposed slot machine facility or casino.

**4. Meetings; compensation.** The commission shall hold no more than 6 meetings. The commission may seek comment from members of the public to assist in the development of the recommendations required by subsection 3. Legislative members are entitled to receive the legislative per diem and reimbursement of necessary expenses for their attendance at authorized meetings of the commission when the Legislature is not in session.

**5. Report and legislation.** By February 15, 2014, the commission shall submit a report based on its findings under subsection 3, including any recommendations for legislation, to the joint standing committee of the Legislature having jurisdiction over casino matters, which is authorized to report out legislation to the Second Regular Session of the 126th Legislature.

**6. Staff.** The Department of Administrative and Financial Services shall provide staff to the commission. The Office of Policy and Legal Analysis shall provide drafting assistance to the commission.

See title page for effective date.

**CHAPTER 700**

**S.P. 278 - L.D. 874**

**An Act To Authorize a General Fund Bond Issue for Higher Education**

**Preamble.** Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14 to authorize the issuance of bonds on behalf of the State of Maine to provide funds as described in this Act,

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

**Sec. 1. Authorization of bonds.** The Treasurer of State is authorized, under the direction of the Governor, to issue bonds in the name and on behalf of the State in an amount not exceeding \$11,300,000 for the purposes described in section 5 of this Act. The bonds are a pledge of the full faith and credit of the State. The bonds may not run for a period longer than

10 years from the date of the original issue of the bonds.

**Sec. 2. Records of bonds issued; Treasurer of State.** The Treasurer of State shall ensure that an account of each bond is kept showing the number of the bond, the name of the successful bidder to whom sold, the amount received for the bond, the date of sale and the date when payable.

**Sec. 3. Sale; how negotiated; proceeds appropriated.** The Treasurer of State may negotiate the sale of the bonds by direction of the Governor, but no bond may be loaned, pledged or hypothecated on behalf of the State. The proceeds of the sale of the bonds, which must be held by the Treasurer of State and paid by the Treasurer of State upon warrants drawn by the State Controller, are appropriated solely for the purposes set forth in this Act. Any unencumbered balances remaining at the completion of the project in this Act lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

**Sec. 4. Interest and debt retirement.** The Treasurer of State shall pay interest due or accruing on any bonds issued under this Act and all sums coming due for payment of bonds at maturity.

**Sec. 5. Disbursement of bond proceeds from General Fund bond issue.** The proceeds of the sale of the bonds authorized under this Act must be expended as designated in the following schedule under the direction and supervision of the agencies and entities set forth in this section.

**UNIVERSITY OF MAINE SYSTEM**

**University of Maine System**

Provides funds for a freestanding biosafety level 3 laboratory, including an animal diagnostic laboratory and a plant diagnostic and insect identification laboratory.

Total \$7,800,000

**MAINE COMMUNITY COLLEGE SYSTEM**

**Maine Community College System**

Provides funds to expand necessary capital infrastructure improvements and equipment including at least \$1,000,000 to be used for machine tool technology.

Total \$3,000,000

**MAINE MARITIME ACADEMY**

**Maine Maritime Academy**

Provides funds to expand necessary capital infrastructure improvements and equipment.

Total \$500,000

**Sec. 6. Contingent upon ratification of bond issue.** Sections 1 to 5 do not become effective unless the people of the State ratify the issuance of the bonds as set forth in this Act.

**Sec. 7. Appropriation balances at year-end.** At the end of each fiscal year, all unencumbered appropriation balances representing state money carry forward. Bond proceeds that have not been expended within 10 years after the date of the sale of the bonds lapse to the Office of the Treasurer of State to be used for the retirement of general obligation bonds.

**Sec. 8. Bonds authorized but not issued.** Any bonds authorized but not issued within 5 years of ratification of this Act are deauthorized and may not be issued, except that the Legislature may, within 2 years after the expiration of that 5-year period, extend the period for issuing any remaining unissued bonds for an additional amount of time not to exceed 5 years.

**Sec. 9. Referendum for ratification; submission at election; form of question; effective date.** This Act must be submitted to the legal voters of the State at a statewide election held in the month of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor an \$11,300,000 bond issue to provide funds for capital to build a diagnostic facility for the University of Maine System; for capital improvements and equipment, including machine tool technology, for the Maine Community College System; and for capital improvements and equipment at the Maine Maritime Academy?"

The legal voters of each city, town and plantation shall vote by ballot on this question and designate their choice by a cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots must be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns. If a majority of the legal votes are cast in favor of this Act, the Governor shall proclaim the result without delay and this Act becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purposes of this referendum.

Effective pending referendum.

**CHAPTER 701**

**S.P. 661 - L.D. 1884**

**An Act To Revise the Laws Regarding the Fund for a Healthy Maine**

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

**Sec. 1. 22 MRSA §1511, sub-§1**, as enacted by PL 1999, c. 401, Pt. V, §1, is amended to read:

**1. Fund established.** The Fund for a Healthy Maine, referred to in this chapter as the "fund," is established ~~as an Other Special Revenue fund~~ for the purposes specified in this chapter ~~as a separate and distinct fund for accounting and budgetary reporting purposes.~~

**Sec. 2. 22 MRSA §1511, sub-§§13 and 14** are enacted to read:

**13. Separate accounts; annual reporting.** A state agency that receives allocations from the fund and a contractor or vendor that receives funding allocated from the fund shall maintain that money in a separate account and shall report by September 1st of each year to the Commissioner of Administrative and Financial Services providing a description of how those funds for the prior state fiscal year were targeted to the prevention and health-related purposes listed in subsection 6. The Commissioner of Administrative and Financial Services shall by October 1st of each year compile the reports provided under this subsection and forward the information in a report to the Legislature.

**14. Legislative committee review of legislation.** Whenever a proposal in a resolve or bill before the Legislature, including but not limited to a budget bill, affects the fund, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the joint standing committee of the Legislature having jurisdiction over health and human services matters to review and evaluate the proposal as it pertains to the fund. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall conduct the review and report to the committee of jurisdiction and to the joint

standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

**Sec. 3. Appropriations and allocations.**

The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Information Services 0155**

Initiative: Provides one-time funds for the computer programming costs associated with establishing the Fund for a Healthy Maine as a separate fund.

GENERAL FUND	2011-12	2012-13
All Other	\$0	\$131,028
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$131,028</b>

See title page for effective date.

**CHAPTER 702**

**S.P. 618 - L.D. 1781**

**An Act To Restructure the National Board Certification Program for Teachers**

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

**Sec. 1. 20-A MRSA §13007, sub-§2**, as enacted by PL 1991, c. 528, Pt. I, §5 and affected by Pt. RRR and enacted by c. 591, Pt. I, §5, is amended to read:

**2. Accounting.** The commissioner shall:

A. Collect and account for all certificate fees; ~~and~~

B. Report and pay ~~these~~ fees collected pursuant to subsection 1, except those fees collected and credited to the National Board Certification Scholarship Fund pursuant to paragraph C and the National Board Certification Salary Supplement Fund pursuant to paragraph D, to the Treasurer of State to be credited to the General Fund;

C. Report and pay \$50,000 in fiscal year 2012-13 and \$75,000 in fiscal year 2013-14 and each fiscal year thereafter from fees collected pursuant to subsection 1 to the Treasurer of State to be credited to the National Board Certification Scholarship Fund, Other Special Revenue Funds account within the Department of Education; and

D. Report and pay no more than \$150,000 in fiscal year 2012-13, no more than \$240,000 in fiscal year 2013-14 and no more than \$335,000 in fiscal year 2014-15 from fees collected pursuant to sub-

section 1 to the Treasurer of State to be credited to the National Board Certification Salary Supplement Fund. Other Special Revenue Funds account within the Department of Education.

**Sec. 2. 20-A MRSA §13013-A**, as amended by PL 2007, c. 58, §3 and c. 240, Pt. D, §§1 and 2, is further amended to read:

**§13013-A. Salary supplements for national board-certified teachers**

**1. Department of Education salary supplement.** Notwithstanding any other provision of law, the Department of Education shall provide a public school teacher or a teacher in a publicly supported secondary school who has attained certification from the National Board for Professional Teaching Standards, or its successor organization, as of July 1, 2006 or thereafter with an annual national board certification salary supplement of \$3,000 for the life of the certificate. The salary supplement must be added to the teacher's base salary and must be considered in the calculation for contributions to the Maine Public Employees Retirement System. If a nationally certified teacher becomes is no longer employed as a classroom teacher in the field of that teacher's national certification, the supplement ceases. The amount of the salary supplement is:

- A. For fiscal year 2012-13, \$2,500;
- B. For fiscal year 2013-14, \$2,750; and
- C. For fiscal year 2014-15 and succeeding years, \$3,000.

**1-A. Funding revenue.** The National Board Certification Salary Supplement Fund is established as a nonlapsing dedicated fund within the Department of Education beginning in fiscal year 2012-13. The salary supplement under subsection 1 must be funded from fees collected by the department pursuant to section 13007, subsection 1.

**2. Local filing; certification.** On or before October 15th annually, the superintendent of schools of a school administrative unit or the chief administrative officer of a publicly supported secondary school or a career and technical education region shall file with the commissioner a certified list of national board-certified teachers eligible to receive the salary supplement pursuant to subsection 1.

**3. Payment.** The department shall provide the salary supplement to school administrative units and publicly supported secondary schools for eligible teachers no later than February 15th of each year.

**4. Expend funds.** A school administrative unit or a publicly supported secondary school may expend funds received through the salary supplement under subsection 1 without calling for a special meeting of the local legislative body.

**5. Scholarship fund.** The National Board Certification Scholarship Fund is established as a nonlapsing dedicated fund, referred to in this subsection as "the scholarship fund," within the Department of Education to encourage teachers to apply to and enroll in the certification program offered by the National Board for Professional Teaching Standards or its successor organization, referred to in this subsection and subsection 6 as "the certification program." A school administrative unit or a publicly supported secondary school may request scholarship funds on behalf of its teachers who meet the requirements set forth in subsection 6. The department shall award funds according to this subsection.

A. In fiscal year 2012-13, the department shall allocate \$50,000 from fees collected by the department pursuant to section 13007, subsection 1 to the scholarship fund. The department shall award an amount equal to the cost of the certification program less any other funds received by the applicant on a first-come first-served basis for the first 20 teachers accepted into the certification program annually.

B. Beginning in fiscal year 2013-14, the department shall allocate \$75,000 from fees collected by the department pursuant to section 13007, subsection 1 each fiscal year to the scholarship fund. The department shall award an amount equal to the cost of enrollment in the certification program less any other funds received by the applicant to not more than 30 teachers accepted into the program annually.

**6. Eligibility requirements.** In order to receive scholarship funds according to subsection 5 on behalf of a teacher, the school administrative unit or a publicly supported secondary school must certify to the department that the teacher:

- A. Is currently employed by a school administrative unit or a publicly supported secondary school;
- B. Has completed at least 3 years of teaching in the State;
- C. Has agreed to mentor at least one other teacher employed in the State through the national board certification process to apply to and enroll in the certification program;
- D. Has provided documentation of acceptance into the certification program; and
- E. Has disclosed any other funds received to cover the cost of the certification program.

**7. Nonlapsing funds.** Any unencumbered balance of the National Board Certification Scholarship Fund under subsection 5 remaining at the end of a fiscal year may not lapse but must be carried forward to be used for the same purpose.

**Sec. 3. 20-A MRSA §15689-A, sub-§12**, as enacted by PL 2005, c. 519, Pt. AAAA, §16, is amended to read:

**12. National board certification salary supplement.** The commissioner may pay annual salary supplement payments to public school administrative units or a publicly supported secondary school for payment to school teachers who have attained certification from the National Board for Professional Teaching Standards or its successor organization pursuant to section 13013-A.

**Sec. 4. Appropriations and allocations.** The following appropriations and allocations are made.

**EDUCATION, DEPARTMENT OF**

**National Board Certification Salary Supplement Fund N134**

Initiative: Allocates funds for salary supplements for those teachers who have attained certification from the National Board for Professional Teaching Standards.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$150,000
	\$0	\$150,000
OTHER SPECIAL REVENUE FUNDS TOTAL		

**National Board Certification Scholarship Fund N133**

Initiative: Allocates funds to encourage certain teachers to apply to and enroll in the certificate program offered by the National Board for Professional Teaching Standards.

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
All Other	\$0	\$50,000
	\$0	\$50,000
OTHER SPECIAL REVENUE FUNDS TOTAL		

**EDUCATION, DEPARTMENT OF**

DEPARTMENT TOTALS	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS	\$0	\$200,000
	\$0	\$200,000
DEPARTMENT TOTAL - ALL FUNDS		

See title page for effective date.



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PRIVATE AND SPECIAL LAWS OF THE STATE OF MAINE  
AS PASSED AT  
THE SECOND REGULAR SESSION OF THE  
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE  
2011

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**CHAPTER 19**

**H.P. 1255 - L.D. 1703**

**An Act To Create the New  
Gloucester Water District**

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

**Whereas**, hydrocarbon, salt and chloride contamination has been identified in New Gloucester's Upper Village and this poses a serious threat to the health and well-being of the inhabitants of the area; and

**Whereas**, in order to secure necessary funding to address the contamination of water in New Gloucester's Upper Village, the Town of New Gloucester has had to schedule in January of 2012 a vote on the creation of a water district, which could occur before this legislation is approved, and this legislation must take effect as close to the vote as possible to effectuate the formation of the water district; and

**Whereas**, an adequate supply of pure water is essential to the health and well-being of the inhabitants of the Town of New Gloucester; 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. Territorial limits; corporate name.** Pursuant to the Maine Revised Statutes, Title 35-A, chapter 64, that part of the Town of New Gloucester described as follows and its inhabitants constitute a standard district under the name "New Gloucester Water District," referred to in this Act as "the district": Beginning at the intersection of Bald Hill Road and I-95, southeast along Bald Hill Road to the intersection with Sawyer Road. North along Sawyer Road to the northwest corner of Map 10 Lot 43. Southeast along the property line to the south corner of Map 10 Lot 43-C, located on the west side of Lewiston Road. North along Lewiston Road to the north corner of Map 10 Lot 63-A, located on the east side of Lewiston

Road. Southeast along the property line to the east corner of Map 10 Lot 65, located on the west side of Peacock Hill Road. Across Peacock Hill Road to the southwest corner of Map 10 Lot 72, located on the east side of Peacock Hill Road. Southeast along the property line to the northeast corner of Map 11 Lot 21, including that portion of Map 10 Lot 72 extending below the north property line of Map 11 Lot 21. Southwest along the property line to the southeast corner of Map 11 Lot 79, located on the north side of Gilmore Road. Southeast along Gilmore Road to the intersection with Hatch Road. Southwest along Hatch Road to the intersection with Rowe Station Road. Southeast along Rowe Station Road to the intersection with Hobbs Drive. Southwest along Hobbs Drive to the southeast corner of Map 11 Lot 8-A2. West along the south property line of Map 11 Lot 8-D to the southwest corner of Map 11 Lot 8-D, located on the east side of Intervale Road. Northwest along Intervale Road to the east corner of Map 11 Lot 16. Southwest along the property line to the south corner of Map 11 Lot 17. Northwest along the property line to the west corner of Map 11 Lot 20-A, located on the east side of Lewiston Road. North along Lewiston Road to the southeast corner of Map 18 Lot 20-A, located on the west side of Lewiston Road. Northwest along the property line to the southwest corner of Map 10 Lot 84, located on the east side of Snow Hill Road, and including that portion of Map 6 Lot 48 located north of the south property line of Map 10 Lot 8-A. West across Snow Hill Road to the south corner of Map 10 Lot 10-C, located on the west side of Snow Hill Road. Northwest along the property line to the Royal River. Southwest along the Royal River to the intersection with I-95. North along I-95 to the point of the beginning located at the intersection of Bald Hill Road.

**Sec. 2. Powers; authority; duties.** The district has all the powers and authority and is subject to all the requirements and restrictions provided in the Maine Revised Statutes, Title 35-A, chapter 64 except as otherwise provided in this Act.

**Sec. 3. Number of trustees.** The board of trustees of the district is composed of 3 trustees. Notwithstanding the Maine Revised Statutes, Title 35-A, section 6410, a trustee must be a resident of the Town of New Gloucester but need not reside in a household to which the district's service is provided.

**Sec. 4. First board.** The first board is appointed by the municipal officers of the Town of New Gloucester in accordance with this Act. Trustees of the first board must be appointed within 45 days of the

effective date of this Act. The terms of the first board are governed by the Maine Revised Statutes, Title 35-A, section 6410.

**Sec. 5. Terms of trustees.** After the appointment of the first board, trustees are elected to 3-year terms in accordance with the Maine Revised Statutes, Title 35-A, section 6410.

**Sec. 6. Emergency clause; referendum; effective date.** This Act takes effect when approved only for the purpose of permitting its submission to the legal voters within the territory described in section 1 of this Act at an election called and held for that purpose, except that this Act takes effect for all purposes immediately upon its approval if a majority of the legal voters within the territory described in section 1 of this Act voting at a referendum held after January 9, 2012 and prior to approval of this Act vote in favor of the question specified in this section. Even if the municipality has not accepted the secret ballot voting, the election must be called, advertised and conducted according to the law relating to municipal elections, including the Maine Revised Statutes, Title 30-A, section 2528. For the purposes of registration of voters, the registrar of voters must be in session the secular day preceding the election. The subject matter of this Act is reduced to the following question:

"Do you favor creating the New Gloucester Water District?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same.

The results must be declared by the municipal officers of the Town of New Gloucester and due certificate of the results filed by the clerk with the Secretary of State.

If a referendum is not held after January 9, 2012 and before approval of this Act or a referendum is held between those dates but a majority of the legal voters within the territory described in section 1 of this Act do not vote in favor of the question specified in this section, this Act takes effect for all purposes immediately upon its approval by a majority of the legal voters voting at an election held at a later date. Failure to achieve the necessary approval in any referendum does not prohibit subsequent referenda consistent with this section.

Effective pending referendum.

**CHAPTER 20**

**H.P. 1264 - L.D. 1712**

**An Act Regarding the School Fund in the Town of Burlington**

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

**Sec. 1. School fund allowed to lapse to general fund.** Notwithstanding the Maine Revised Statutes, Title 13, chapter 93, subchapter 5, the Town of Burlington is authorized to allow the funds that are in the town's school and ministerial fund to lapse to the town's general fund.

See title page for effective date.

**CHAPTER 21**

**S.P. 595 - L.D. 1736**

**An Act To Make Allocations from Maine Turnpike Authority Funds for the Maine Turnpike Authority for the Calendar Year Ending December 31, 2013**

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

**Sec. 1. Allocation.** Gross revenues of the Maine Turnpike Authority for the calendar year ending December 31, 2013 must be segregated, apportioned and disbursed as designated in the following schedule.

<b>MAINE TURNPIKE AUTHORITY</b>	<b>2013</b>
<b>Administration</b>	
Personal Services	\$1,067,749
All Other	1,467,258
<b>TOTAL</b>	<b>\$2,535,007</b>
<b>Accounts and Controls</b>	
Personal Services	\$2,606,086
All Other	1,090,391
<b>TOTAL</b>	<b>\$3,696,477</b>
<b>Highway Maintenance</b>	
Personal Services	\$4,346,868
All Other	2,839,417
<b>TOTAL</b>	<b>\$7,186,285</b>

**Equipment Maintenance**

Personal Services	\$1,096,290
All Other	1,801,307
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TOTAL	\$2,897,597

**Fare Collection**

Personal Services	\$9,757,145
All Other	3,933,466
	<hr/>
TOTAL	\$13,690,611

**Public Safety and Special Services**

Personal Services	\$490,043
All Other	5,983,668
	<hr/>
TOTAL	\$6,473,711

**Building Maintenance**

Personal Services	\$541,491
All Other	504,455
	<hr/>
TOTAL	\$1,045,946

Subtotal of Line Items Budgeted \$37,525,634

General Contingency - 5% of line items budgeted for 2013 (10% allowed) 1,876,282

**MAINE TURNPIKE AUTHORITY**  
**TOTAL REVENUE FUNDS** 

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\$39,401,916

**Sec. 2. Transfer of allocations.** Any balance of the allocation for "General Contingency" made by the Legislature for the Maine Turnpike Authority may be transferred at any time prior to the closing of the books to any other allocation or subdivision of any other allocation made by the Legislature for the use of the Maine Turnpike Authority for the same calendar year. Any balance of any other allocation or subdivision of any other allocation made by the Legislature for the Maine Turnpike Authority that at any time is

not required for the purpose named in the allocation or subdivision may be transferred at any time prior to the closing of the books to any other allocation or subdivision of any other allocation made by the Legislature for the use of the Maine Turnpike Authority for the same calendar year subject to review by the joint standing committee of the Legislature having jurisdiction over transportation matters. Financial statements describing the transfer, other than a transfer from "General Contingency," must be submitted by the Maine Turnpike Authority to the Office of Fiscal and Program Review 30 days before the transfer is to be implemented. In the case of extraordinary emergency transfers, the 30-day prior submission requirement may be waived by vote of the committee. These financial statements must include information specifying the accounts that are affected, amounts to be transferred, a description of the transfer and a detailed explanation as to why the transfer is needed.

**Sec. 3. Encumbered balance at year-end.** At the end of each calendar year, encumbered balances may be carried to the next calendar year.

**Sec. 4. Supplemental information.** As required by the Maine Revised Statutes, Title 23, section 1961, subsection 6, the following statement of the revenues in 2013 that are necessary for capital expenditures and reserves and to meet the requirements of any resolution authorizing bonds of the Maine Turnpike Authority during 2013, including debt service and the maintenance of reserves for debt service and reserve maintenance, is submitted.

**Turnpike Revenue Bond** **2013**  
**Resolution Adopted April 18,**  
**1991; Issuance of Bonds**  
**Authorized Pursuant to the**  
**Maine Revised Statutes, Title 23,**  
**section 1968, subsections 1 and 2**

Debt Service Fund	\$34,370,309
Reserve Maintenance Fund	32,000,000
General Reserve Fund, to be applied as follows:	
Capital Improvements	24,411,531
Debt Service Fund under the General Special Obligation Bond Resolution Adopted May 15, 1996; Issuance of Bonds Authorized Pursuant to the Maine Revised Statutes, Title 23, section 1968, subsection 2-A	2,465,750

TOTAL \$93,247,590

See title page for effective date.

**CHAPTER 22**

**S.P. 580 - L.D. 1681**

**An Act To Amend the Charter  
of the Lucerne-in-Maine  
Village Corporation**

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

**Whereas**, this legislation makes changes to the qualifications for membership on the Board of Overseers of the Lucerne-in-Maine Village Corporation; and

**Whereas**, the Board of Overseers of the Lucerne-in-Maine Village Corporation holds its meeting in the summer and the changes made by this legislation may not take effect before the date of the meeting if this legislation is not enacted as an emergency; 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. P&SL 1927, c. 43, §7-A, first ¶**, as enacted by P&SL 1983, c. 42, §7, is amended to read:

**Sec. 7-A. Officers; adoption of bylaws; officers to be sworn; treasurer to give bond; budget committee established.** The officers of the corporation ~~shall be~~ are a board of 3 overseers, a treasurer, a clerk and such other officers as the bylaws of the corporation may require. The Board of Overseers, when elected as provided ~~below in this section,~~ below in this section, shall ~~forthwith proceed to~~ forthwith proceed to appoint a treasurer, and a clerk to serve at ~~their pleasure~~ the pleasure of the board. ~~Any nonresident officers shall be permanent residents of an area included within a radius of 25 miles of the fire station at Lucerne in Maine.~~ Officers shall serve until their successors ~~have been~~ are sworn and duly qualified.

**Sec. 2. P&SL 1927, c. 43, §7-A, 4th ¶**, as enacted by P&SL 1983, c. 42, §7, is repealed.

**Sec. 3. P&SL 1927, c. 43, §7-A, 5th ¶**, as amended by P&SL 1997, c. 24, §1, is repealed and the following enacted in its place:

Commencing at any summer meeting in 2012 and for each year thereafter, any legal voter of the village corporation may be elected for a 3-year term as an overseer. A person may run for the office of overseer for as many terms as that person is nominated. When a seat becomes vacant, the Board of Overseers shall hold an election for that seat, establishing a term that ensures that one seat expires each calendar year. If an overseer resigns from office prior to the summer meeting, the remaining members of the Board of Overseers shall appoint an overseer to fill the position until the next summer meeting. At the first Board of Overseers' meeting following each summer meeting, the board shall choose a chair for the ensuing year.

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

Effective March 8, 2012.

**CHAPTER 23**

**S.P. 593 - L.D. 1733**

**An Act To Provide for the 2012  
and 2013 Allocations of the  
State Ceiling on Private  
Activity Bonds**

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

**Whereas**, the Maine Revised Statutes, Title 10, section 363 and Private and Special Law 2007, chapter 18 make a partial allocation of the state ceiling on private activity bonds to some issuers for calendar year 2012, but leave a portion of the state ceiling unallocated and do not provide sufficient allocations for certain types of private activity bonds that may require an allocation prior to the effective date of this Act if it is not enacted on an emergency basis; and

**Whereas**, if these bond issues are delayed due to lack of available state ceiling, the rates and terms under which these bonds may be issued may be adversely affected, resulting in increased costs to beneficiaries or unavailability of financing for certain projects; 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. Allocation to the Treasurer of State.** The \$5,000,000 of the state ceiling on private activity bonds for calendar year 2012 previously allocated to the Treasurer of State remains allocated to the Treasurer of State to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 5 for calendar year 2012. Five million dollars of the state ceiling for calendar year 2013 is allocated to the Treasurer of State to be used or reallocated in accordance with Title 10, section 363, subsection 5.

**Sec. 2. Allocation to the Finance Authority of Maine.** The \$40,000,000 of the state ceiling on private activity bonds for calendar year 2012 previously allocated to the Finance Authority of Maine remains allocated to the Finance Authority of Maine to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 6 for calendar year 2012. Forty million dollars of the state ceiling for calendar year 2013 is allocated to the Finance Authority of Maine to be used or reallocated in accordance with Title 10, section 363, subsection 6.

**Sec. 3. Allocation to the Maine Municipal Bond Bank.** The \$10,000,000 of the state ceiling on private activity bonds for calendar year 2012 previously allocated to the Maine Municipal Bond Bank remains allocated to the Maine Municipal Bond Bank to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 7 for calendar year 2012. Ten million dollars of the state ceiling for calendar year 2013 is allocated to the Maine Municipal Bond Bank to be used or reallocated in accordance with Title 10, section 363, subsection 7.

**Sec. 4. Allocation to the Maine Educational Loan Authority.** The \$20,000,000 of the state ceiling on private activity bonds for calendar year 2012 previously allocated to the Maine Educational Loan Authority is modified so that \$15,000,000 is allocated to the Maine Educational Loan Authority to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 8 for calendar year 2012. Fifteen million dollars of the state ceiling for calendar year 2013 is allocated to the Maine Educational Loan Authority to be used or reallocated in accordance with Title 10, section 363, subsection 8.

**Sec. 5. Allocation to the Maine State Housing Authority.** No portion of the state ceiling on private activity bonds for calendar year 2012 was previously allocated to the Maine State Housing Authority to be used or reallocated in accordance with the Maine Revised Statutes, Title 10, section 363, subsection 4 for calendar year 2012. Fifty million dollars of previously unallocated state ceiling for calendar year 2012 is allocated to the Maine State Housing Author-

ity to be used or reallocated in accordance with Title 10, section 363, subsection 4 for calendar year 2012. Fifty million dollars of the state ceiling for calendar year 2013 is allocated to the Maine State Housing Authority to be used or reallocated in accordance with Title 10, section 363, subsection 4.

**Sec. 6. Unallocated state ceiling.** One hundred sixty-four million five hundred sixty thousand dollars of the state ceiling on private activity bonds for calendar year 2012 is unallocated and must be reserved for future allocation in accordance with applicable laws. One hundred sixty-four million five hundred sixty thousand dollars of the state ceiling for calendar year 2013 is unallocated and must be reserved for future allocation in accordance with applicable laws.

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

Effective March 14, 2012.

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**CHAPTER 24**

**S.P. 530 - L.D. 1620**

**An Act To Amend the Charter  
of the Ogunquit Sewer District**

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

**Sec. 1. P&SL 1963, c. 87, §1,** as amended by P&SL 2001, c. 19, §2, is further amended to read:

**Sec. 1. Territorial limits; incorporation; purposes.** The inhabitants and territory within the Town of Ogunquit in York County constitute a public sewerage district and a body politic and corporate under the name of "Ogunquit Sewer District." The purpose of the district, subject to the provisions of section 10, is to take over, control, operate and manage the sanitary sewer system previously owned by the Town of Ogunquit and as further improved and expanded by the Ogunquit Sewer District with all appurtenances thereto; to extend, increase, enlarge and improve the sewer system; to extend the present system or systems so as to furnish sewerage facilities to those parts of the district and, as determined appropriate by the trustees of the district, to parts of adjoining municipalities not now served with such facilities; to provide for removal and treatment of sewage when, as and if such treatment becomes necessary; and generally to construct, maintain, operate and provide a system of sewerage sewage collection and pumping, sewage disposal and sewage treatment for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district.

**Sec. 2. P&SL 1963, c. 87, §1-A** is enacted to read:

**Sec. 1-A. Powers.** The district has all powers, rights, privileges and immunities of similar corporations or necessary for the accomplishment of the district's purposes.

**Sec. 3. P&SL 1963, c. 87, §2, 2nd ¶**, as amended by P&SL 2001, c. 19, §3, is repealed.

**Sec. 4. P&SL 1963, c. 87, §2-A** is enacted to read:

**Sec. 2-A. Sewer extensions.** Sewer extensions are governed by the Maine Revised Statutes, Title 38, section 1252, subsection 7.

**Sec. 5. P&SL 1963, c. 87, §6**, as amended by P&SL 2001, c. 19, §6, is repealed and the following enacted in its place:

**Sec. 6. Limitations on crossing a public utility.** If a sewer line of the district crosses the property or line of any other public utility, unless consent is given by the other public utility as to place, manner and conditions of the crossing within 30 days after consent is requested by the district, the Public Utilities Commission shall determine the place, manner and conditions of the crossing, and all work on the property of the public utility must be done under the supervision and to the satisfaction of the public utility, but at the expense of the district. If a sewer line of the district crosses the property or line of a railroad corporation, the procedure is the same as for crossing the property of a public utility except that the Department of Transportation shall determine the place, manner and conditions of the crossing. Nothing in this section may be construed as authorizing the district to take by right of eminent domain any of the property or facilities of any other public utility used or acquired for future use by the owner of the public utility in the performance of a public duty, unless expressly authorized by act of the Legislature.

**Sec. 6. P&SL 1963, c. 87, §8**, as amended by P&SL 2001, c. 19, §6, is repealed and the following enacted in its place:

**Sec. 8. Contracts.** The district is authorized to contract with persons, corporations, districts and other municipalities, both inside and outside the boundaries of the district, with the State and the United States Government or any agency of either and with private contractors, to provide for disposal of sewage and commercial and industrial waste and storm and surface water through the district's system and through the system of a person, corporation, district or other municipality; and every other district and municipality of the State is authorized to contract with the district for the collection, distribution, treatment and disposal of sewage and commercial and industrial waste and storm and surface water.

**Sec. 7. P&SL 1963, c. 87, §8-A** is enacted to read:

**Sec. 8-A. Lease of property.** The district's lease of its property is governed by the Maine Revised Statutes, Title 38, section 1252, subsection 10.

**Sec. 8. P&SL 1963, c. 87, §9**, as amended by P&SL 2001, c. 19, §6, is repealed and the following enacted in its place:

**Sec. 9. Conditions for carrying out work.** If the district enters, digs up or excavates any public way or other land for the purpose of laying or maintaining its sewers, drains or pipes, constructing or maintaining manholes or catch basins or their appurtenances or for any other purpose, the work must be done expeditiously, and on completion of the work the district shall restore the way or land to the condition it was in prior to such work or to a condition equally good. If the character of the work is such as to endanger travel on any public way, the municipal officers of the municipality in which the work is being done may order a temporary closing of the way and of any intersecting way upon request of the district, and the way remains closed to public travel until the municipal officers determine it restored to a condition safe for traffic.

**Sec. 9. P&SL 1963, c. 87, §12** is repealed and the following enacted in its place:

**Sec. 12. Connection of private sewers.** Notwithstanding the Maine Revised Statutes, Title 38, section 1252, subsection 3, every building within the district intended for human habitation or occupancy or with facilities for discharge or disposal of sewage or commercial or industrial waste that is accessible to a sewer or drain of the district must have a sanitary sewer or drainage system that must be connected with the sewer or drain of the district by the owner or person against whom taxes on the premises are assessed in the most direct manner possible within 90 days after receiving a request for connection from the district or within such further time as the trustees of the district may grant and, if feasible, with a separate connection for each building. Existing buildings that are already served by a private sewer system are not required to connect with any sewer or drain of the district as long as the private sewer or drainage system functions in a satisfactory and sanitary manner and does not violate any applicable law or ordinance or any applicable requirements of the state plumbing code, as determined by the municipal plumbing inspector or the plumbing inspector's alternate or, in the event that both are trustees or employees of the district, the Department of Health and Human Services, Division of Health Engineering. A building is considered to be accessible to a sewer or drain of the district for the purposes of this section if that building or any private sewer or drain directly or indirectly connected to the building, or carrying sewage or commercial or industrial waste from

the building, is at any point or may at some point come within 150 feet of a sewer or drain of the district, except that nothing in this section requires the owner of any building to acquire any real property or easement for the sole purpose of making that connection.

**Sec. 10. P&SL 1963, c. 87, §13**, as amended by P&SL 2001, c. 19, §6, is further amended to read:

**Sec. 13. Sanitary provisions, standards and penalty for violations.** ~~The district is authorized to adopt standards as may be required to conform its operations with state and federal environmental statutes and regulations, establish and amend reasonable rules, regulations and bylaws for the proper management of the affairs of the district and perform other acts within the powers delegated by law to the trustees.~~ Any person who places, discharges or leaves an offensive or injurious matter or material on or in the conduits, catch basins or receptacles of the district contrary to its rules or regulations, or willfully injures any conduit, pipe, reservoir, flush tank, catch basin, manhole, outlet, engine, pump or other property held, owned or used by the district for the purposes of this act is liable to pay twice the amount of the damages to the district, to be recovered in a civil action; and such person, on conviction of any of the acts or willful injury described in this section, and any person who violates section 11 or 12, may be punished by a fine of up to \$1,000 per day.

**Sec. 11. P&SL 1963, c. 87, §14**, as amended by P&SL 2001, c. 19, §7, is further amended by amending the 4th, 8th, 9th and 10th paragraphs to read:

~~The annual meeting of the district must be held on the last Monday of June at an hour, date and place designated by resolution of the board of trustees as provided in the bylaws.~~ At the annual meeting of the district, the trustees shall elect a chair, a treasurer and a clerk to serve for the ensuing year and until their successors are elected and qualified.

~~As soon as convenient after the election or appointment of a new trustee, the board of trustees shall hold a meeting at some convenient place in the district, to be called by any member of the board of trustees in writing, designating the time and place and delivered in hand to the other 2 members not less than 2 full days before the meeting; except that they may meet by agreement without a notice. As soon as convenient after the regularly scheduled annual election, and after the appointment of a new trustee to fill a vacancy on the board of trustees, the board of trustees shall organize by election from their own members a chair, treasurer and clerk.~~ The trustees may adopt and establish bylaws, consistent with the laws of the State of Maine and the United States, as may be necessary for their own convenience and the proper management of the affairs of the district, and perform any other acts within the powers delegated to them by law.

The trustees from time to time may choose and employ, and fix the compensation of, any other necessary officers and agents who serve at their pleasure. The treasurer shall furnish bond or appropriate insurance coverage in such sum and with such sureties as the trustees approve, the cost of the bond or insurance coverage to be paid by the district.

Members of the board of trustees are eligible to serve in any office under the board. ~~The Notwithstanding the Maine Revised Statutes, Title 38, section 1252, subsection 5, the trustees receive a salary not to exceed \$750 \$950 per year and the treasurer may be allowed further compensation as the trustees determine.~~

**Sec. 12. P&SL 1963, c. 87, §17**, as amended by P&SL 2001, c. 19, §8, is repealed and the following enacted in its place:

**Sec. 17. Authorized to borrow money and to issue bonds and notes.** To procure funds for the purposes of this Act and for such other expenses as may be necessary for the carrying out of the purposes, the district without a district vote but by action of its board of trustees is authorized to raise funds from sources other than operational activities by borrowing money in accordance with this section. The district may issue its notes and bonds in one series or in separate series from time to time, as long as the aggregate outstanding principal balance at any one time does not exceed \$7,000,000, unless a higher debt obligation limit is approved pursuant to the Maine Revised Statutes, Title 38, section 1256.

All bonds, notes or other evidences of indebtedness must have inscribed upon their face the words "Ogunquit Sewer District" and must be signed by the treasurer and countersigned by the chair of the board of trustees of the district and, if coupon bonds are issued, the interest coupons attached must bear the facsimile of the signature of the treasurer. Bonds must be issued in accordance with the following provisions.

**1. Authorization of bonds.** The district may provide by resolution of its board of trustees, without district vote, for the borrowing of money and the issuance from time to time of bonds for any of its corporate purposes, including, but not limited to:

A. Paying and refunding its indebtedness;

B. Paying any necessary expenses and liabilities incurred, including organizational and other necessary expenses and liabilities, whether incurred by the district or a municipality in the district, the district being authorized to reimburse a municipality in the district for any such expenses incurred or paid by the municipality;

C. Paying costs directly or indirectly associated with acquiring properties, paying damages, laying sewers, drains and conduits, constructing, main-

taining and operating sewage and treatment plants or systems and making renewals, additions, extensions and improvements to the same, and to cover interest payments during the period of construction and for such period thereafter as the trustees may determine:

D. Providing such reserves for debt service, repairs and replacements or other capital or current expenses as may be required by a trust agreement or resolution securing bonds; or

E. Any combination of these purposes.

Bonds may be issued as general obligations of the district or as special obligations payable solely from particular funds. The principal of and premium, if any, and interest on all bonds are payable solely from the funds provided for that purpose from revenues. For purposes of this Act, "revenues" means and includes the proceeds of bonds, all revenues, rates, fees, entrance charges, assessments, rents and other receipts derived by the district from the operation of its sewer system and other properties, including, but not limited to, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties. All bonds issued by the district are legal obligations of the district and the district is declared to be a quasi-municipal corporation within the meaning of the Maine Revised Statutes, Title 30-A, section 5701. Bonds may be issued without obtaining the consent of a commission, board, bureau or agency of the State or of a municipality encompassed by the district and without any proceedings or conditions other than those specifically required by this Act. Bonds issued do not constitute a debt or liability of the State or of a municipality encompassed by the district or a pledge of the faith and credit of the State or a municipality. The bonds are payable solely from the funds provided for that purpose, and a statement to that effect must be recited on the face of the bonds.

**2. Notes.** The district may also provide by resolution of its board of trustees, without district vote, for the issuance from time to time of notes in anticipation of bonds authorized and of notes in anticipation of the revenues to be collected or received in any year or in anticipation of the receipt of federal or state grants or other aid. The issue of these notes is governed by the applicable provisions of this Act relating to the issue of bonds, except that notes in anticipation of revenue must mature no later than one year from their respective dates, and notes issued in anticipation of federal or state grants or other aid and renewals of such notes must mature no later than the expected date of receipt of those grants or aid. Notes in anticipation of revenue issued to mature less than one year from their dates may be renewed from time to time by the issue of other notes, as long as the period from the date of an original note to the maturity of a note issued to renew

or pay the same or the interest on the note does not exceed one year.

The district may enter into agreements with the State or the United States, or an agency of either, or a municipality, corporation, commission or board authorized to grant or loan money to or otherwise assist in the financing of projects of the type that the district is authorized to carry out and to accept grants and borrow money from any such government, agency, municipality, corporation, commission or board as may be necessary or desirable to accomplish the purposes of the district.

### **3. Maturity; interest; form; temporary bonds.**

The bonds issued under this Act must be dated, must mature at such time or times not exceeding 40 years from their date or dates and must bear interest at such rate or rates as may be determined by the board of trustees, and may be made redeemable before maturity, at the option of the district, at such price or prices and under such terms and conditions as may be fixed by the board of trustees prior to the issuance of the bonds. The board of trustees shall determine the form of the bonds, including any interest coupons to be attached to the bonds, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company inside or outside the State. Bonds must be executed in the name of the district by the manual or facsimile signature of such officer or officers as may be authorized in the resolution to execute the bonds, but at least one signature on each bond must be a manual signature. Coupons, if any, attached to the bonds must be executed with the facsimile signature of the officer or officers of the district designated in the resolution. If an officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be an officer before the delivery of the bonds, the signature or its facsimile is valid and sufficient for all purposes as if the officer had remained in office until the delivery. Notwithstanding any of the other provisions of this Act or any recitals in any bonds issued under this Act, all such bonds are deemed to be negotiable instruments under the laws of this State. The bonds may be issued in coupon or registered form, or both, as the board of trustees may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The board of trustees may sell the bonds in such manner, either at public or private sale, and for such price as the board may determine to be for the best interests of the district. The proceeds of the bonds of each issue must be used solely for the purpose for which those bonds have been authorized and must be disbursed in such manner and under such restrictions, if any, as the board of trus-

tees may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. The resolution providing for the issuance of bonds and a trust agreement securing the bonds may contain such limitations upon the issuance of additional bonds as the board of trustees may determine proper, and these additional bonds must be issued under such restrictions and limitations as may be prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the board of trustees may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and are available for delivery. The board of trustees may provide for the replacement of any bond that is mutilated, destroyed or lost.

**4. Pledges and covenants; trust agreement.** In the discretion of the board of trustees of the district, an issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee, which may be a trust company inside or outside the State.

The resolution authorizing the issuance of the bonds or the trust agreement may pledge or assign, in whole or in part, the revenues and other money held or to be received by the district and any accounts and contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the district, and the proceeds of the bonds, but may not convey or mortgage the sewer system or any other properties of the district. The resolution may also contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the district and the board of trustees in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of its sewer system or of its other properties; the fixing and revising of rates, fees and charges; the application of the proceeds of bonds; the custody, safeguarding and application of revenues; and defining defaults and providing for remedies in the event of a default, which may include the acceleration of maturities, the establishment of reserves and the making and amending of contracts. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition, the resolution or trust agreement may contain such other provisions as the board of trustees may determine reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by a resolution or trust agreement is valid and binding and is deemed continuously perfected for the

purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, money, rights and proceeds pledged and thereafter received by the district are immediately subject to the lien of the pledge without a physical delivery or segregation or further action under the Uniform Commercial Code or otherwise, and the lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the district irrespective of whether those parties have notice of the lien of the pledge.

The resolution authorizing the issuance of bonds under this Act, or a trust agreement securing those bonds, may provide that all or a sufficient amount of revenues, after providing for the payment of the cost of repair, maintenance and operation and reserves as may be provided in the resolution or trust agreement, are set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited in the credit of a fund for the payment of the interest on and the principal of bonds issued under this Act as the payment becomes due, and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of money to the credit of the fund are subject to such regulations as may be provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund is a fund for the benefit of all bonds without distinction or priority of one over another.

**5. Trust funds.** Notwithstanding any other law, all money received pursuant to the authority of this Act is deemed to be trust funds, to be held and applied solely as provided in this Act. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that any officer to whom, or bank, trust company or other fiscal agent to which, that money is paid shall act as trustee of that money and shall hold and apply the same for the purposes of this Act, subject to such regulations as may be provided in the resolution or trust agreement or as may be required by this Act.

**6. Remedies.** A holder of bonds issued under this Act or of any of the coupons appertaining to the bonds, and the trustee under a trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of those bonds or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, including proceedings for the appointment of a receiver to take possession and control of the properties of the district, protect and enforce all rights under the laws of the State or granted under this Act or under the resolution or trust agreement, and may enforce and compel the performance of all duties required by this Act or by the resolution or trust agreement to be performed by the district or by an officer of the district, including the

fixing, charging and collecting of rates, fees and charges for the use of or for the services and facilities furnished by the district.

**7. Refunding bonds.** The district by resolution of its board of trustees, without district vote, may issue refunding bonds for the purpose of paying its bonds at maturity or upon acceleration or redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board of trustees determines to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium on the refunding, any interest accrued or to accrue to the date of payment of the bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other capital or current expenses from the proceeds of the refunding bonds as may be required by a trust agreement or resolution securing bonds. The issue of refunding bonds, the maturities and other details of the refunding bonds, the security for the refunding bonds, the rights of the holders of the refunding bonds, and the rights, duties and obligations of the district in respect of the same are governed by the applicable provisions of the Maine Revised Statutes, Title 38, chapter 11 relating to the issue of bonds other than refunding bonds.

**8. Tax exemption.** All bonds, notes or other evidences of indebtedness issued under this Act and their transfer and the income from bonds, notes or other evidences of indebtedness, including the profit made on the sale of bonds, notes or other evidences of indebtedness are at all times free from taxation within the State.

**9. Bonds declared legal investments.** Bonds and notes issued by the district under this Act are made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a banking business, and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are made securities that may properly and legally be deposited with and received by a state, municipal or public officer, or an agency or political subdivision of the State, for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

**Sec. 13. P&SL 1963, c. 87, §19,** as amended by P&SL 1975, c. 81, §6, is repealed and the following enacted in its place:

**Sec. 19. Rates and tolls; application of revenues.** All individuals, firms and corporations, whether public, private or municipal, shall pay to the treasurer of the district rates, tolls, rents, entrance charges and other lawful charges established by the board of trustees in accordance with this Act for the services used or available to them. The sewer rates may be adjusted for the quality and character of the material discharged into the sewer system and may include discounts and late charges, rates for the district's connection fees, impact fees and readiness to serve charge against owners or persons in possession or against whom the taxes are assessed of all buildings or premises intended for human habitation or occupancy, whether occupied or not, that abut on a street or location through which the district has constructed a sewer line or that are within 150 feet of a sewer line constructed by the district, even if the buildings or premises are not actually connected to the sewer line.

In this Act, the words "other lawful charges" or "other charges" include, but are not limited to, interest on delinquent accounts at a rate not to exceed the highest lawful rate set by the Treasurer of State for municipal taxes.

Rates, tolls, rents and entrance charges must be uniform within the district if the cost to the district of installation and maintenance of sewers or their appurtenances and the cost of service is substantially uniform; but nothing precludes the district from establishing a higher rate, toll, rent or entrance charge than the regular rates, tolls, rents and entrance charges in sections where, for any reason, the cost to the district of construction and maintenance or the cost of service exceeds the average, but the higher rates, tolls, rents and entrance charges must be uniform throughout the sections where they apply.

Prior to the adoption of a new rate schedule, the board of trustees shall hold a public hearing regarding the proposed rate schedule. The board of trustees shall publish the proposed rates and notice of the hearing at least once in a newspaper having a general circulation in the district not less than 7 days prior to the hearing. The district shall mail to each ratepayer a notice of the public hearing and the proposed new rate at least 14 days prior to the hearing.

Notwithstanding any other provision of law, districts that share, supply or contract with another district for services shall establish rates, tolls, rents and entrance charges mutually agreeable to the board of each participating district.

The sewer rates, tolls, rents, entrance charges, assessments and other lawful charges established by the board of trustees in accordance with this Act must be

fixed and adjusted to produce in the aggregate revenue at least sufficient, together with any other money available, to:

**1. Current operating expenses.** Pay the current expenses of operating and maintaining the sewerage, drainage and treatment system of the district;

**2. Payment of interest and principal.** Pay the principal of, premium, if any, and interest on all bonds and notes issued by the district under this Act and the Maine Revised Statutes, Title 38, chapter 11 as the same become due and payable;

**3. Sinking fund for retirement of obligations; repairs; replacement; renewals.** Create and maintain sinking funds and other reserves for retirement of obligations as may be required by any trust agreement or resolution securing bonds and notes and provide funds for paying the cost of all necessary repairs, replacements and renewals of the sewerage, drainage and treatment systems of the district; and

**4. Payment of obligations.** Pay or provide for all amounts that the district may be obligated to pay or provide for by law or contract, including a resolution or contract with or for the benefit of the holders of its bonds and notes.

**Sec. 14. P&SL 1963, c. 87, §24-A** is enacted to read:

**Sec. 24-A. Landlord access to tenant bill payment information.** Landlord access to payment information related to sewer service is governed by the Maine Revised Statutes, Title 38, section 1252, subsection 11.

**Sec. 15. P&SL 1963, c. 87, §28-A** is enacted to read:

**Sec. 28-A. Coordination with municipal planning.** The district shall coordinate municipal planning and sewer extension planning in accordance with the Maine Revised Statutes, Title 38, section 1252, subsection 9.

**Sec. 16. P&SL 1963, c. 87, §30** is enacted to read:

**Sec. 30. Supplementary charges; powers granted.** The district is authorized to impose charges, in addition to any other assessments lawfully imposed by general law, for the use of sewers, sewer systems and treatment works, and the trustees may adopt rules and regulations as may be necessary or convenient to carry out the purposes of the district. All incidental powers, rights and privileges necessary to the accomplishment of the purposes of the district are granted to the district and its trustees, including the right of its trustees to determine when and where sew-

erage and treatment facilities and disposal units are needed and when and where they are constructed.

See title page for effective date.

**CHAPTER 25**

**H.P. 1354 - L.D. 1834**

**An Act To Amend the Boothbay Region Water District Charter**

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

**Whereas,** the Town of Southport is critically deficient in existing infrastructure for fire protection; and

**Whereas,** the existing groundwater drawn upon by the population of the Town of Southport through wells is contaminated with many inorganic and organic compounds; and

**Whereas,** the population of the Town of Southport must have year-round access to clean and safe drinking water 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:**

**PART A**

**Sec. A-1. P&SL 2001, c. 15, §1** is amended to read:

**Sec. 1. Territorial limits; corporate name.** Pursuant to the Maine Revised Statutes, Title 35-A, section 6403, subsection 1, paragraph B and subject to section 8 of this Act, the territory and the inhabitants of the Town of Boothbay ~~and~~ the Town of Boothbay Harbor and the Town of Southport constitute a standard water district under the name "Boothbay Region Water District," referred to in this Act as the "district."

**Sec. A-2. P&SL 2001, c. 15, §2** is amended to read:

**Sec. 2. Powers; authority; duties.** Except as otherwise expressly provided in this Act, the district has all the powers and authority and is subject to all the requirements and restrictions provided in the

Maine Revised Statutes, Title 35-A, chapter 64. ~~The district is authorized to provide water to the Town of Southport.~~

**Sec. A-3. P&SL 2001, c. 15, §5, first ¶** is amended to read:

**Sec. 5. Trustees; how elected; first board; meeting; officers.** All of the affairs of the district must be managed by a board of trustees composed of ~~5~~ 7 members: two residents of the Town of Boothbay Harbor, 2 residents of the Town of Boothbay, 2 residents of the Town of Southport and one at-large member chosen from the 3 towns.

**Sec. A-4. P&SL 2001, c. 15, §5, sub-§4** is amended to read:

**4. Vacancy.** Whenever the term of office of a trustee from the Town of Boothbay Harbor expires, the trustee's successor must be elected from the Town of Boothbay Harbor by the inhabitants of the district, except that, after the first year, the successor of the trustee from the Town of Boothbay Harbor that served a term of one year must be elected at large by the inhabitants of the district at town meetings to be held in the Town of Boothbay Harbor ~~and~~ the Town of Boothbay ~~and the Town of Southport~~. Whenever the term of office of a trustee from the Town of Boothbay expires, the trustee's successor must be elected from the Town of Boothbay by the inhabitants of the district. Whenever the term of office of a trustee from the Town of Southport expires, the trustee's successor must be elected from the Town of Southport by the inhabitants of the district by secret ballot. Trustees are elected at the annual town meetings from the town that the trustees represent. The trustee so elected shall serve the full term of 3 years. If any vacancy arises in the membership of the board of trustees, it must be filled in like manner for the unexpired term by a special election to be called by the trustees of the district. When any trustee ceases to be a resident of the district, the trustee shall vacate the office of trustee and the vacancy must be filled as provided in this subsection. All trustees are eligible for reelection, but a person who is a municipal officer in the Town of Boothbay Harbor ~~or~~ the Town of Boothbay or the Town of Southport is not eligible for nomination or election as trustee.

**Sec. A-5. P&SL 2001, c. 15, §5-A** is enacted to read:

**Sec. 5-A. Southport trustees; first appointment.** The municipal officers of the Town of Southport at a regular meeting or special meeting shall appoint 2 trustees to serve on the board of trustees of the Boothbay Region Water District from the Town of Southport, both of whom must be residents of the Town of Southport. Of these initial trustees, one trustee shall serve for a term of one year and one for a term of 2 years. The municipal officers shall deter-

mine the term of office of each trustee. Notwithstanding the Maine Revised Statutes, Title 35-A, section 6410, subsection 3 or any other provision of law, a municipal officer may initially be appointed to serve as a trustee under this section. Vacancies must be filled pursuant to section 5, subsection 4.

**Sec. A-6. P&SL 2001, c. 15, §7-A** is enacted to read:

**Sec. 7-A. Transfer of assets of the Southport water system.** The district, through its trustees, shall acquire, in accordance with this section, all of the assets of the Southport water system.

The sale and transfer by the Town of Southport to the district of its plants, properties, assets, franchises, rights and privileges, the assumption by the district of all the outstanding debts, obligations and liabilities of the Southport water system pursuant to this section and the subsequent use of the plants, properties, assets, franchises, rights and privileges by the district within the limits of the district are subject to the approval of the Public Utilities Commission as may be required by the Maine Revised Statutes, Title 35-A, Part 1.

**Sec. A-7. Emergency clause; referenda; effective date.** In view of the emergency cited in the preamble, this Part takes effect when approved only for the purpose of permitting its submission to the legal voters within the Town of Boothbay, the Town of Boothbay Harbor and the Town of Southport at each town's annual election or a special election called for that purpose within 2 years after the effective date of this Act. The election must be called by the municipal officers of the respective towns and must be held at the regular voting places. The election must be called, advertised and conducted according to the law relating to municipal elections. The registrars shall make a complete list of all the eligible voters of the proposed district as described in this Part. The list prepared by the registrars governs the eligibility of a voter. For the purpose of registration of voters, the registrars of voters must be in session the secular day preceding the election. The subject matter of this Part is reduced to the following question:

"Do you favor allowing the Boothbay Region Water District to provide water to the Town of Southport and to acquire the assets of the Southport water system?"

The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same.

The results must be declared by the municipal officers of the Town of Boothbay Harbor, the Town of Boothbay and the Town of Southport and due certificate of the results filed by the clerks with the Secretary of State.

This Part takes effect for all purposes immediately upon its approval by a majority of the legal voters of each town voting at the election. Failure to achieve the necessary approval in any referendum does not prohibit subsequent referenda consistent with this section as long as the referenda are held within 2 years of the effective date of this Act.

**PART B**

**Sec. B-1. P&SL 2001, c. 15, §5, sub-§4-A** is enacted to read:

**Sec. 4-A. Municipal officers; trustees.** Notwithstanding section 5, subsection 4 and the Maine Revised Statutes, Title 35-A, section 6410, subsection 3, municipal officers of the towns within the district are eligible for nomination and election as trustees of the district.

**Sec. B-2. Emergency clause; referenda; effective date.** In view of the emergency cited in the preamble, this Part takes effect when approved only for the purpose of permitting its submission to the legal voters within the territory of the district. This Part may be submitted to the legal voters within the Town of Boothbay, the Town of Boothbay Harbor and the Town of Southport, only if Part A of this Act takes effect pursuant to the referendum in that Part, at each town's annual election or a special election called for that purpose within 2 years after the effective date of this Act. The election must be called by the municipal officers of the respective towns and must be held at the regular voting places. The election must be called, advertised and conducted according to the law relating to municipal elections. The registrars shall make a complete list of all the eligible voters of the district. The list prepared by the registrars governs the eligibility of a voter. For the purpose of registration of voters, the registrars of voters must be in session the secular day preceding the election. The subject matter of this Part is reduced to the following question:

"Do you favor allowing municipal officers of the towns of the Boothbay Region Water District to be eligible for nomination and election as trustees of the Boothbay Region Water District?"

The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same.

The results must be declared by the municipal officers of the Town of Boothbay Harbor, the Town of Boothbay and the Town of Southport and due certificate of the results filed by the clerks with the Secretary of State.

This Part takes effect for all purposes immediately upon its approval by a majority of the legal voters of each town voting at the election. Failure to achieve the necessary approval in any referendum does not prohibit subsequent referenda consistent with this section as long as the referenda are held within 2 years of the effective date of this Act.

hibit subsequent referenda consistent with this section as long as the referenda are held within 2 years of the effective date of this Act.

Effective pending referendum.

**CHAPTER 26**

**H.P. 1363 - L.D. 1842**

**An Act To Amend the Charter of the Bingham Water District and To Direct That Certain Issues Be Studied**

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

**Whereas,** the Bingham Water District has lost a significant portion of its customer base in the last few years; and

**Whereas,** the Bingham Water District has invested in infrastructure improvements for its customers; and

**Whereas,** the debt obligations of the Bingham Water District are increasingly difficult to meet with fewer customers; 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. P&SL 1911, c. 13, §6, 2nd ¶** is repealed and the following enacted in its place:

Each member is entitled to compensation as recommended by the trustees and approved by a majority vote of the municipal officers of the Town of Bingham and Concord Township. Certification of the vote must be recorded with the Secretary of State and recorded in the bylaws.

**Sec. A-2. P&SL 1911, c. 13, §6, last ¶** is amended to read:

The ~~said~~ water district, at any legal meeting ~~thereof~~ called for the purpose, may adopt such ~~by-laws~~ bylaws and provisions, not inconsistent with the constitution and laws of this ~~state~~ State and of the United States, as they ~~may deem~~ determine expedient and necessary for the good government and regulation of the municipal affairs of ~~said~~ the water district; ~~in~~

~~which case, such by laws. The bylaws and provisions so adopted shall apply to said the water district as fully, to for all intents and purposes, as the other provisions of this act, subject to alterations and additions only by a two-thirds simple majority vote of the legal voters of said the water district present and voting at a legal meeting thereof called for the purpose.~~

**PART B**

**Sec. B-1. Public Utilities Commission to examine certain issues.** The Public Utilities Commission shall convene a stakeholder group to examine financial issues related to the loss of customers by water utilities and the effect the loss has on the utilities' ability to pay for infrastructure as well as the effects on remaining customers. The commission shall invite participation from a broad range of interested entities. The stakeholder group shall examine whether there are appropriate means by which contributions to system costs may be collected from customers who discontinue service or from property owners whose property has been served or may be served by the system and if so how the collection may be done in a manner that is just and reasonable. The group may also examine readiness-to-service charges and requirements to take service or other mechanisms and shall seek to develop appropriate models for addressing issues created by the loss of customers by water utilities. The commission shall report the findings and recommendations of the stakeholder group, together with the commission's analysis of those findings and recommendations, and any proposals of the stakeholder group for changes to law to implement its recommendations to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by February 15, 2013. The committee may report out a bill on the subject matter of the report to the First Regular Session of the 126th Legislature.

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

Effective April 12, 2012.

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**CHAPTER 27**

**H.P. 1403 - L.D. 1901**

**An Act To Amend the Charter of the Lewiston-Auburn Water Pollution Control Authority**

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

**Sec. 1. P&SL 1967, c. 92, §14, first ¶,** as amended by P&SL 2001, c. 6, §1, is further amended to read:

**Sec. 14. Lewiston-Auburn Water Pollution Control Board.** The authority is under the management and direction of a board of directors, which is known as the Lewiston-Auburn Water Pollution Control Board, also referred to as "the board" or "the board of the authority." The board consists of 7 members. The director of the Lewiston Department of Public Works, the City Administrator or acting City Administrator of the City of Lewiston or ~~the Assistant City Administrator, if designated by the City Administrator or serving as acting City Administrator during a vacancy in the office of another employee of the City of Lewiston designated by the City Administrator~~ the superintendent and the president of the Auburn Sewerage District and the City Manager or acting City Manager of the City of Auburn or ~~the Assistant City Manager, if designated by the City Manager or serving as acting City Manager during a vacancy in the office of another employee of the City of Auburn designated by the City Manager,~~ are members of the board by virtue of their respective offices. If the president of the Auburn Sewerage District Trustees declines to serve or resigns as a member of the board of the authority, the president shall select another trustee to serve for the remainder of the term. Notice of the appointment must be given in writing by the clerk of the Auburn Sewerage District to the board of the authority. The Mayor of Lewiston shall appoint, subject to confirmation of the city council, a qualified voter of the City of Lewiston to serve for a 2-year term on the board of the authority and thereafter until a successor takes office. In the event that either the Lewiston resident so selected or the appointee of the president of the Auburn Sewerage District ceases to be a resident of that person's respective city, or dies, becomes incapacitated, or otherwise ceases to be a member of the Auburn Sewerage District Trustees, or if the president of the Auburn Sewerage District dies or becomes incapacitated while serving on the board of the authority, a successor must be elected to serve out the remainder of the term by the Mayor and City Council of Lewiston or the Auburn Sewerage District Trustees, as the case may be.

See title page for effective date.

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**CHAPTER 28**

**H.P. 1414 - L.D. 1910**

**An Act To Allow the Town of Fort Kent To Create a Downtown Tax Increment Financing District Using the Current Assessed Value of the Downtown**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergencies; and

**Whereas**, the Town of Fort Kent has suffered a disastrous fire resulting in the destruction of 20% of its downtown; and

**Whereas**, the Town of Fort Kent desires to take immediate steps to prepare a tax increment financing proposal to redevelop its downtown; 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. Authorization to adjust original assessed value.** Notwithstanding the Maine Revised Statutes, Title 30-A, section 5222, subsection 13, the Town of Fort Kent may define "original assessed value" for the downtown tax increment financing district it designates between April 1, 2012 and March 31, 2013 as the assessed value of the district as of April 1, 2012.

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

Effective April 17, 2012.

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**RESOLVES OF THE STATE OF MAINE  
AS PASSED AT  
THE SECOND REGULAR SESSION OF THE  
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE  
2011**

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**CHAPTER 114  
H.P. 1127 - L.D. 1535**

**Resolve, Directing the  
Department of Administrative  
and Financial Services, Bureau  
of Revenue Services To  
Develop a Pilot Project for a  
Tax Simulation Model for State  
Dynamic Fiscal Analysis**

**Sec. 1. Undertake pilot project to develop and evaluate a tax simulation model for state dynamic fiscal analysis. Resolved:** That the Department of Administrative and Financial Services, Bureau of Revenue Services, referred to in this resolve as "the bureau," shall undertake a pilot project to develop and evaluate a tax simulation model for state dynamic fiscal analysis, which is analysis to estimate the effect a change in the tax laws would have on state revenue as well as the fiscal impact of the changes in taxpayer behavior and overall economic activity that may occur due to the tax law change. The bureau may enter into a memorandum of understanding with the University of Maine to develop and evaluate the pilot project model for state dynamic fiscal analysis. The bureau may disclose information otherwise protected under the Maine Revised Statutes, Title 36, section 191 to specific University of Maine staff members and students identified in the memorandum of understanding for the purpose of developing and evaluating the pilot project model for state dynamic fiscal analysis; and be it further

**Sec. 2. Recommendations and report. Resolved:** That, no later than November 15, 2012, the bureau and the Office of Fiscal and Program Review shall each evaluate the completed pilot project model and submit a joint report that includes the findings of the evaluation and provides recommendations to the Joint Standing Committee on Taxation. The report must include justification for the recommendations of continued use or development of the pilot project model, or of acquisition of other existing models for state dynamic fiscal analysis, and the estimated costs, timeline for implementation and description of the functional capabilities of any such model and of its development or acquisition. The report may include

suggested legislation to implement the recommendations.

See title page for effective date.

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**CHAPTER 115  
S.P. 525 - L.D. 1615**

**Resolve, To Name 2 Bridges in  
the Town of Harmony**

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

**Whereas,** it is important to honor Amy, Coty and Monica Lake and to keep the memory of this young family alive through the naming of 2 bridges in the Town of Harmony; and

**Whereas,** the Legislature stands in strong opposition to domestic violence and supports all efforts to put an end to domestic violence; and

**Whereas,** the naming of the 2 bridges also serves as a tribute to all victims of domestic violence; and

**Whereas,** it is important to ensure that signs on the named bridges be in place immediately to raise awareness regarding domestic violence and its impact on individuals, communities and the State of Maine; and

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

**Sec. 1. Bridge on State Route 150 named. Resolved:** That the Department of Transportation shall designate Bridge 5846 on State Route 150 known as Higgins Stream Bridge that crosses Higgins Stream in the Town of Harmony the Amy, Coty and Monica Bridge; and be it further

**Sec. 2. Bridge on State Route 154 named. Resolved:** That the Department of Transportation shall designate Bridge 5126 on State Route 154 that crosses the Sebasticook River at Mainstream in the Town of Harmony the Remember Me Bridge.

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

Effective February 21, 2012.

## CHAPTER 116

### S.P. 206 - L.D. 675

#### **Resolve, To Create a Working Group To Study Multidistrict Online Learning Options in Maine**

**Sec. 1. Department of Education to create working group. Resolved:** That the Department of Education shall create a working group to study the opportunities and challenges presented by establishing multidistrict online learning options for students enrolled in kindergarten to grade 12 public schools in the State. The working group shall evaluate the implementation of existing online learning programs in the State and in other jurisdictions, including programs featuring a blended learning approach that combines face-to-face classroom methods with computer-mediated activities to form an integrated instructional approach. The working group shall also consider online learning options that are learner-centered, that focus on content that is consistent with state learning standards under the Maine Revised Statutes, Title 20-A, section 6209 and that provide equitable educational opportunity for all students; and be it further

**Sec. 2. Working group; report. Resolved:** That the working group under section 1 must include teachers, administrators, parents, information technology specialists and other persons, groups or entities that have an interest in online learning. The Commissioner of Education shall invite to serve as members of the working group representatives of the following educational associations who are appointed by their respective associations:

1. The Maine Education Association;
2. The Maine Principals' Association;
3. The Maine School Boards Association;
4. The Maine School Superintendents Association;
5. The Association of Computer Technology Educators of Maine;
6. The Maine Parent Teacher Association; and
7. The Maine Administrators of Services for Children with Disabilities.

By January 4, 2013, the Department of Education shall report the findings of the working group along with any suggested legislation to the joint standing

committee of the Legislature having jurisdiction over education and cultural affairs. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs may submit a bill regarding the subject of the report to the First Regular Session of the 126th Legislature; and be it further

**Sec. 3. Funding. Resolved:** That the costs to the Department of Education to create the working group and to conduct the study required pursuant to section 1 must be absorbed within existing budgeted resources and through the use of federal and private funds received by the department to carry out the purposes of this resolve.

See title page for effective date.

## CHAPTER 117

### H.P. 1198 - L.D. 1593

#### **Resolve, To Name Route 1-A between Brewer and Ellsworth the Korean War Veterans Memorial Highway**

**Sec. 1. Name United States Route 1-A the Korean War Veterans Memorial Highway. Resolved:** That the Department of Transportation shall name the portion of United States Route 1-A that runs between the City of Brewer and the City of Ellsworth the Korean War Veterans Memorial Highway, to honor all United States Armed Forces veterans of the Korean War; and be it further

**Sec. 2. Signs erected. Resolved:** That the Department of Transportation shall erect appropriate signs along the portion of United States Route 1-A between the City of Brewer and the City of Ellsworth to identify that portion as the Korean War Veterans Memorial Highway.

See title page for effective date.

## CHAPTER 118

### H.P. 1281 - L.D. 1734

#### **Resolve, Regarding Legislative Review of Portions of Chapter 41: Special Restrictions on Pesticide Use, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control**

**Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergencies; and

**Whereas**, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas**, the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas**, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 41: Special Restrictions on Pesticide Use, a provisionally adopted major substantive rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective March 5, 2012.

**CHAPTER 119**

**H.P. 1209 - L.D. 1601**

**Resolve, To Amend the Resolve Establishing the Task Force on Franco-Americans**

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

**Whereas**, the Task Force on Franco-Americans was established by Resolve 2011, chapter 102 to find ways to promote and preserve the Franco-American heritage that is shared by a great number of Maine citizens; and

**Whereas**, the study must be initiated before the 90-day period expires in order that the study may be convened and completed and a report prepared in time for submission to the next legislative session; 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

**Sec. 1. Resolve 2011, c. 102, §4, amended. Resolved:** That Resolve 2011, c. 102, §4 is amended to read:

**Sec. 4. Appointments; convening of task force. Resolved:** That ~~all appointments must be made no later than 30 days following the effective date of this resolve. The~~ the appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the task force. The chairs may call and convene the first meeting of the task force during the Second Regular Session or any subsequent special session of the 125th Legislature. If 30 days or more after the ~~effective date of this resolve~~ adjournment of the Second Regular Session or any subsequent special session of the 125th Legislature a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the task force to meet and conduct its business; and be it further

; and be it further

**Sec. 2. Resolve 2011, c. 102, §6, amended. Resolved:** That Resolve 2011, c. 102, §6 is amended to read:

**Sec. 6. Staff assistance. Resolved:** That, notwithstanding Joint Rule 353, the Legislative Council shall provide necessary staffing services to the task force, ~~except that the Legislative Council staff support is not authorized when the Legislature is in regular or special session. The Franco-American Center at the University of Maine shall provide necessary staffing services to the task force when the Legislature is in regular or special session;~~ and be it further

; and be it further

**Sec. 3. Resolve 2011, c. 102, §7, amended. Resolved:** That Resolve 2011, c. 102, §7 is amended to read:

**Sec. 7. Report. Resolved:** That, ~~no later than December 7, 2011, the task force shall provide a preliminary report with draft recommendations to the Second Regular Session of the 125th Legislature. The notwithstanding Joint Rule 353, the final report, including findings and recommendations, must be submitted to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by November 7 December 15, 2012. That joint standing committee is authorized to introduce a bill to the First Regular Session of the 126th Legislature related to the subject matter of the report; and be it further~~

; and be it further

**Sec. 4. Resolve 2011, c. 102, §8, amended. Resolved:** That Resolve 2011, c. 102, §8 is amended to read:

**Sec. 8. Meetings; outside funding. Resolved:** That the task force is authorized to hold 4 meetings. The task force shall seek funding contributions to fully fund the costs of the study. All funding is subject to approval by the Legislative Council in accordance with its policies. If sufficient contributions to fund the study have not been received within 30 days after the effective date of this resolve, no meetings are authorized and no expenses of any kind may be incurred or reimbursed; and be it further

; and be it further

**Sec. 5. Retroactivity. Resolved:** That this resolve applies retroactively to July 6, 2011.

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

Effective March 7, 2012.

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## CHAPTER 120

S.P. 522 - L.D. 1596

### Resolve, To Review Laws and Policies Related to Discontinued and Abandoned Roads

**Sec. 1. Department of Conservation stakeholder group on discontinued and abandoned roads. Resolved:** That the Department of Conservation shall convene a stakeholder group of no more than 10 members to review laws and policies related to discontinued and abandoned roads. The stakeholder group shall examine issues relating to continued road access through public easements, damage to a road caused by use by abutting property owners, damage to a road caused by members of the public, maintenance of a private road that has a public easement, methods to address problems of road damage and ways to maintain access for intermittent users who need access to a road. The stakeholder group must include representatives from the Department of Transportation, up to 2 residents who own property on a discontinued or abandoned road with a public easement and members from statewide organizations representing municipalities, small woodlot owners, producers of forest products, snowmobilers and other interested parties. The Department of Conservation shall fund the work of the stakeholder group from within existing resources. The Department of Conservation shall report the stakeholder group's findings and any recommendations to the joint standing committee

of the Legislature having jurisdiction over state and local government matters no later than January 15, 2013. The joint standing committee of the Legislature having jurisdiction over state and local government matters is authorized to report out legislation to the First Regular Session of the 126th Legislature.

See title page for effective date.

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## CHAPTER 121

S.P. 628 - L.D. 1818

### Resolve, To Extend the Reporting Deadline of the Working Group on an All-payor Claims Database System

**Sec. 1. Resolve 2011, c. 109, §6, amended. Resolved:** That Resolve 2011, c. 109, §6 is amended to read:

**Sec. 6. Report. Resolved:** That, by ~~January 31~~ December 1, 2012, the department shall report the recommendations based on the findings and conclusions, determined by vote, of the working group, along with any recommended implementing legislation, to the ~~Joint Standing Committee on Health and Human Services~~ joint standing committee of the Legislature having jurisdiction over health and human services matters.

; and be it further

**Sec. 2. Retroactivity. Resolved:** That this resolve applies retroactively to January 31, 2012.

See title page for effective date.

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## CHAPTER 122

H.P. 1272 - L.D. 1723

### Resolve, Regarding Legislative Review of Chapter 122: Grant Application and Award Procedure: Fund for the Efficient Delivery of Educational Services, a Major Substantive Rule of the Department of Education

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative au-

thorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas**, the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas**, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of Chapter 122: Grant Application and Award Procedure: Fund for the Efficient Delivery of Educational Services, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective March 8, 2012.

**CHAPTER 123**

**H.P. 1241 - L.D. 1689**

**Resolve, To Revise Requirements of the Maine Land Use Regulation Commission Pertaining to Maple Sugarhouses**

**Sec. 1. Rulemaking; setbacks and recording deed restrictions. Resolved:** That the Maine Land Use Regulation Commission shall amend its rules pertaining to maple sugar processing subdivisions to:

1. Eliminate the minimum 1,000-foot setback from public roads, shorelines of great ponds and major flowing waters and any other type of residential or commercial development;

2. Allow any 2 leased lots in a maple sugar processing subdivision to abut each other while requiring the abutting lots and any nonabutting lots to be separated from all other leased lots in that subdivision by a minimum of 1,000 feet in order to allow for multiple pairings of abutting leased lots in a maple sugar processing subdivision when the topography is favorable for such location; and

3. Require the deed restrictions for leased lots in a maple sugar processing subdivision to be recorded with the registry of deeds at the time the subdivision is created.

See title page for effective date.

**CHAPTER 124**

**H.P. 1285 - L.D. 1743**

**Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting System for Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization**

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

**Whereas**, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas**, the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas**, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 270: Uniform Reporting System for Quality Data Sets, a provisionally adopted major substantive rule of the Maine Health Data Organization that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective March 14, 2012.

**CHAPTER 125**  
**H.P. 1306 - L.D. 1775**

**Resolve, Regarding Legislative  
Review of Portions of Chapter  
115: Certification,  
Authorization and Approval of  
Education Personnel, Parts I  
and II, a Major Substantive  
Rule of the Department of  
Education and the State Board  
of Education**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 115: Certification, Authorization and Approval of Education Personnel, Parts I and II, a provisionally adopted major substantive rule of the Department of Education and the State Board of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if that portion of the rule designated as Part II, Section 2.7, subsection B, paragraph 4, Certificate Eligibility Pathway 4, is amended to clarify the 4 distinct requirements of this eligibility pathway.

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

Effective March 14, 2012.

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**CHAPTER 126**  
**S.P. 540 - L.D. 1630**

**Resolve, To Establish a  
Stakeholder Group for the  
Development of a Plan for the  
Inventory and Proper Care of  
Veterans' Graves**

**Sec. 1. Creation of stakeholder group; membership. Resolved:** That, within its existing resources, the Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services shall establish a stakeholder group, referred to in this resolve as "the stakeholder group," for the development of a plan for the inventory and proper care of veterans' graves. The bureau shall invite the participation of representatives of municipal government, county government, genealogy groups and veterans' organizations; a designee of the Maine Old Cemetery Association and a designee of the Maine Cemetery Association; and interested members of the public; and be it further

**Sec. 2. Duties. Resolved:** That the stakeholder group shall review the status of the graves of all veterans of the United States Armed Forces throughout the State. The stakeholder group is not required to consider veterans' graves in private cemeteries unless they are considered ancient burying grounds subject to care and maintenance by a town or county as prescribed by the Maine Revised Statutes, Title 13, sections 1101 to 1102. The stakeholder group shall issue a report that makes recommendations to ensure that veterans' graves are properly cared for, especially those of veterans who no longer have family members who are able to monitor and maintain those graves; and be it further

**Sec. 3. Report. Resolved:** That, no later than January 15, 2013, the Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services shall report the stakeholder group's findings and recommendations and any suggested legislation to the joint standing committees of the Legislature having jurisdiction over veterans matters and state and local government matters.

See title page for effective date.

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**CHAPTER 127**  
**S.P. 625 - L.D. 1807**

**Resolve, Directing the Maine Turnpike Authority To Place Signs on Interstate 95 Directing Motorists to the Southern Maine Veterans Memorial Cemetery in Springvale**

**Sec. 1. Signs placed for the Southern Maine Veterans Memorial Cemetery. Resolved:** That the Maine Turnpike Authority, notwithstanding federal guidelines relating to directional signs for highways, shall place signs directing motorists to the Southern Maine Veterans Memorial Cemetery in Springvale on the portion of Interstate 95 designated as the Maine Turnpike on the northbound and southbound lanes of the highway.

See title page for effective date.

**CHAPTER 128**  
**H.P. 1316 - L.D. 1791**

**Resolve, Regarding Legislative Review of Portions of Chapter 815: Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities, a Major Substantive Rule of the Public Utilities Commission**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 815: Consumer Protection Standards for Electric and Gas Transmission and Distribution Utilities, a provisionally adopted major substantive rule of the Public Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective March 16, 2012.

**CHAPTER 129**  
**H.P. 1292 - L.D. 1751**

**Resolve, Authorizing the State Tax Assessor To Convey the Interest of the State in Certain Real Estate in the Unorganized Territory**

**Sec. 1. State Tax Assessor authorized to convey real estate. Resolved:** That the State Tax Assessor is authorized to convey by sale the interest of the State in real estate in the Unorganized Territory as indicated in this resolve. Except as otherwise directed in this resolve, the sale must be made to the highest bidder subject to the following provisions.

1. Notice of the sale must be published 3 times prior to the sale, once each week for 3 consecutive weeks, in a newspaper in the county where the real estate lies, except in those cases in which the sale is to be made to a specific individual or individuals as authorized in this resolve, in which case notice need not be published.

2. A parcel may not be sold for less than the amount authorized in this resolve. If identical high bids are received, the bid postmarked with the earliest date is considered the highest bid.

If bids in the minimum amount recommended in this resolve are not received after the notice, the State Tax Assessor may sell the property for not less than the minimum amount without again asking for bids if the property is sold on or before April 1, 2013.

Employees of the Department of Administrative and Financial Services, Bureau of Revenue Services and spouses, siblings, parents and children of employees of the Bureau of Revenue Services are barred from acquiring from the State any of the real property subject to this resolve.

Upon receipt of payment as specified in this resolve, the State Tax Assessor shall record the deed in

the appropriate registry at no additional charge to the purchaser before sending the deed to the purchaser.

Abbreviations and plan and lot references are identified in the 2009 State Valuation. Parcel descriptions are as follows:

**2009 MATURED TAX LIENS**

T17 R3 WELS, Aroostook County  
 Map AR011, Plan 1, Lot 1 038970099-2  
 Theriault, Bertrand Building on leased lot

TAX LIABILITY	
2009	\$564.63
2010	507.14
2011	413.88
2012 (estimated)	413.88
<hr/>	
Estimated Total Taxes	\$1,899.53
Interest	85.50
Costs	26.00
Deed	8.00
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Total	\$2,019.03

Recommendation: Sell to Theriault, Bertrand for \$2,019.03. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$2,025.00.

T17 R4 WELS, Aroostook County  
 Map AR021, Plan 5, Lot 24 038980077-3  
 Cannan, Dayton J. 0.21 acre

TAX LIABILITY	
2009	\$89.18
2010	80.10
2011	146.67
2012 (estimated)	146.67
<hr/>	

Estimated Total Taxes	\$462.62
Interest	13.51
Costs	26.00
Deed	8.00
<hr/>	
Total	\$510.13

Recommendation: Sell to Cannan, Dayton J. for \$510.13. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$525.00.

T17 R4 WELS, Aroostook County  
 Map AR021, Plan 5, Lot 22 038980079-3  
 Cannan, Dayton J. 0.37 acre

TAX LIABILITY	
2009	\$192.97
2010	173.32
2011	201.81
2012 (estimated)	201.81
<hr/>	
Estimated Total Taxes	\$769.91
Interest	29.22
Costs	26.00
Deed	8.00
<hr/>	
Total	\$833.13

Recommendation: Sell to Cannan, Dayton J. for \$833.13. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$850.00.

Madrid TWP, Franklin County  
 Map FR029, Plan 6, Lot 18.2 071100395-1  
 Webber, Melvyn Building on 1.2 acres

TAX LIABILITY

2009	\$467.90
2010	387.01
2011	380.66
2012 (estimated)	380.66

Estimated Total	\$1,616.23
Taxes	
Interest	69.69
Costs	26.00
Deed	8.00
<b>Total</b>	<b>\$1,719.92</b>

Recommendation: Sell to Webber, Melvyn for \$1,719.92. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$1,725.00.

Madrid TWP, Franklin County

Map FR029, Plan 5, Lot 7	071100396-2
Webber, Melvyn B. and Lucille K.	13.95 acres

TAX LIABILITY

2009	\$228.51
2010	189.00
2011	185.90
2012 (estimated)	185.90

Estimated Total	\$789.31
Taxes	
Interest	34.04
Costs	26.00
Deed	8.00
<b>Total</b>	<b>\$857.35</b>

Recommendation: Sell to Webber, Melvyn B. and Lucille K. for \$857.35. If they do not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$875.00.

Albany TWP, Oxford County

Map OX016, Plan 1, Lot 38.11	178022082-1
Cargill, Matthew Reed	1.27 acres

TAX LIABILITY

2009	\$76.20
2010	69.55
2011	72.47
2012 (estimated)	72.47

Estimated Total	\$290.69
Taxes	
Interest	11.58
Costs	26.00
Deed	8.00
<b>Total</b>	<b>\$336.27</b>

Recommendation: Sell to Cargill, Matthew Reed for \$336.27. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$350.00.

Kingman TWP, Penobscot County

Map PE036, Plan 1, Lot 5	198080157-2
Gonzalez, Israel	52 acres

TAX LIABILITY

2009	\$240.12
2010	218.27
2011	197.10
2012 (estimated)	197.10

Estimated Total	\$852.59
Taxes	
Interest	36.45
Costs	26.00
Deed	8.00
<b>Total</b>	<b>\$923.04</b>

Recommendation: Sell to Gonzalez, Israel for \$923.04. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$925.00.

Interest	185.03
Costs	26.00
Deed	8.00
	<hr/>
Total	\$6,445.52

Kingman TWP, Penobscot County

Recommendation: Sell to Mulcahy, Thomas J. for \$6,445.52. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$6,450.00.

Map PE036, Plan 2, Lot 50 198080005-2  
 Martin, Marysol 0.37 acre

TAX LIABILITY

Concord TWP, Somerset County

2009	\$11.82
2010	10.74
2011	9.70
2012 (estimated)	9.70
	<hr/>
Estimated Total Taxes	\$41.96
Interest	1.79
Costs	26.00
Deed	8.00
	<hr/>
Total	\$77.75

Map SO081, Plan 1, Lot 46.2 258180037-1  
 Gozdek, Joseph Jr. Building on 0.39 acre

TAX LIABILITY

Recommendation: Sell to Martin, Marysol for \$77.75. If she does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$100.00.

2009	\$143.51
2010	196.34
2011	122.75
2012 (estimated)	122.75
	<hr/>
Estimated Total Taxes	\$585.35
Interest	24.09
Costs	26.00
Deed	8.00
	<hr/>
Total	\$643.44

T1 R1 NBKP (Taunton and Raynham Academy Grant), Somerset County

Recommendation: Sell to Gozdek, Joseph Jr. for \$643.44. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$650.00.

Map SO031, Plan 6, Lot 10 258032010-1  
 Mulcahy, Thomas J. Building on 2.39 acres

TAX LIABILITY

T1 R3 TS, Washington County

2009	\$1,205.16
2010	1,154.61
2011	1,933.36
2012 (estimated)	1,933.36
	<hr/>
Estimated Total Taxes	\$6,226.49

Map WA020, Plan 2, Lot 28 298090038-3  
 Bowden, Mary G. Building on 23 acres

TAX LIABILITY

2009	\$281.42
2010	259.85

2011	243.92
2012 (estimated)	243.92
<hr/>	
Estimated Total Taxes	\$1,029.11
Interest	42.86
Costs	26.00
Deed	8.00
<hr/>	
Total	\$1,105.97

Recommendation: Sell to Bowden, Mary G. for \$1,105.97. If she does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$1,125.00.

Trescott TWP, Washington County

Map WA032, Plan 1, Lot 47.9 298110133-2

Svendsen, Andrew W. Trust  
(2009 ownership)

Tuzzolino, Salvatore R. (2010 ownership) Building on 2.04 acres

TAX LIABILITY	
2009	\$308.76
2010	287.18
2011	124.72
2012 (estimated)	124.72
<hr/>	
Estimated Total Taxes	\$845.38
Interest	47.10
Costs	26.00
Deed	8.00
<hr/>	
Total	\$926.48

Recommendation: Sell to Tuzzolino, Salvatore R. for \$926.48. If he does not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$950.00.

Cathance TWP, Washington County

Map WA034, Plan 6, Lot 4 293300003-5  
Hibbard, Robert D. and Deborah Building on 1.2 acres

TAX LIABILITY	
2009	\$985.43
2010	916.55
2011	1,246.66
2012 (estimated)	1,246.66
<hr/>	
Estimated Total Taxes	\$4,395.30
Interest	150.33
Costs	26.00
Deed	8.00
<hr/>	
Total	\$4,579.63

Recommendation: Sell to Hibbard, Robert D. and Deborah for \$4,579.63. If they do not pay this amount within 60 days after the effective date of this resolve, sell to the highest bidder for not less than \$4,600.00.

; and be it further

**Sec. 2. State Tax Assessor reauthorized to convey certain real estate for which previous authority expires April 1, 2012. Resolved:** That the State Tax Assessor is reauthorized to convey by sale the interest of the State in real estate identified in this section for which authority was first granted in Resolve 2011, chapter 54 but which expires April 1, 2012. The conveyance of real estate under this section is subject to the same conditions as under section 1.

**2009 MATURED TAX LIENS**

E TWP, Aroostook County

Map AR108, Plan 3, Lot 4 031600080-2  
Hibbert, Neville L. 48 acres

TAX LIABILITY	
2008	\$125.51
2009	161.54
2010	145.09
2011	145.09



2008	\$7.39
2009	8.93
2010	8.03
2011	8.03
2012 (estimated)	8.03
<hr/>	
Estimated Total	\$40.41
Taxes	
Interest	1.69
Costs	26.00
Deed	8.00
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Total	\$76.10

Recommendation: Sell to the highest bidder for not less than \$100.00.

See title page for effective date.

**CHAPTER 130  
S.P. 613 - L.D. 1776**

**Resolve, To Streamline  
Forester Licensing  
Requirements**

**Sec. 1. Streamlining of forester licensing requirements. Resolved:** That the Department of Professional and Financial Regulation, Board of Licensure of Foresters, referred to in this resolve as "the board," and the Department of Conservation, Maine Forest Service shall examine the licensing requirements for foresters as specified in the Maine Revised Statutes, Title 32, chapter 76 for the purpose of streamlining forester licensing requirements. In performing this examination, the board and the Maine Forest Service shall develop recommendations that:

1. Simplify the education, testing and experience requirements for obtaining a license as a forester; and
2. Allow a person who meets specified experience levels and demonstrates knowledge of forestry law to be exempt from the education requirements of Title 32, section 5514, subsection 2.

The board shall submit the recommendations and implementing legislation to the joint standing committee of the Legislature having jurisdiction over forestry matters no later than December 18, 2012 for consideration by the 126th Legislature. The joint standing

committee may report out a bill regarding the simplified process.

See title page for effective date.

**CHAPTER 131  
H.P. 1318 - L.D. 1793**

**Resolve, Regarding Legislative  
Review of Portions of Chapter  
375: No Adverse  
Environmental Effect Standard  
of the Site Location Law, a  
Major Substantive Rule of the  
Department of Environmental  
Protection**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 375: No Adverse Environmental Effect Standard of the Site Location Law, a provisionally adopted major substantive rule of the Department of Environmental Protection that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective March 18, 2012.

**CHAPTER 132**  
**H.P. 1338 - L.D. 1814**

**Resolve, To Promote the  
Expansion of the Maine Maple  
Sugar Industry**

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

**Whereas,** the task force convened in accordance with Resolve 2011, chapter 48 has determined that Maine's forest resource is able to support significant expansion in maple sugar production and has identified obstacles to expansion; and

**Whereas,** continuing involvement of stakeholders is vital to facilitate the expansion of this industry; and

**Whereas,** in order to provide the task force created in this resolve the most time possible to complete its work, it is necessary that it be convened before the end of the 90-day period; 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

**Sec. 1. Task force. Resolved:** That the Commissioner of Agriculture, Food and Rural Resources, referred to in this resolve as "the commissioner," shall convene a task force to develop strategies to address obstacles to the expansion of Maine's maple sugar industry. The commissioner shall invite members of the task force convened under Resolve 2011, chapter 48 to continue to serve. The commissioner shall invite others to serve as needed to ensure that each of the following are represented on the task force:

1. A statewide association of producers of Maine maple sugar products;
2. A regional association of producers of maple sugar products in southern Maine;
3. An association of producers of maple sugar products in Somerset County;
4. A producer of maple sugar products in Aroostook County;
5. A producer of maple sugar products with more than 5,000 taps;
6. A producer of maple sugar products with 1,000 or fewer taps;
7. A statewide organization of small woodlot owners;

8. A statewide organization representing the forest products industry;

9. The University of Maine Cooperative Extension; and

10. A statewide farming association with a committee actively involved with maple sugar production; and be it further

**Sec. 2. Chair; convening of initial meeting. Resolved:** That the commissioner shall designate a person to serve as chair of the task force and shall convene the initial meeting no later than 30 days following the effective date of this resolve; and be it further

**Sec. 3. Duties. Resolved:** That the task force shall:

1. Monitor and analyze growth in maple sugar production and demand for maple sugar products;
2. Work with private landowners, foresters and managers of public lands to develop guidance on and facilitate the leasing of forest lands for maple sugar production;
3. Develop strategies to increase educational opportunities for producers;
4. Work with education professionals on a curriculum to increase awareness of the maple sugar industry and train workers for the industry;
5. Develop recommendations for establishing an ongoing council in statute to guide the expansion of Maine's maple sugar industry and oversee a comprehensive promotion initiative. The task force shall make recommendations as to the membership, terms and responsibilities of the council;
6. Identify funding sources to support the maple sugar industry, including recommendations for allocating resources within the Department of Agriculture, Food and Rural Resources and the University of Maine Cooperative Extension; and
7. Develop recommendations for a comprehensive promotion program for the maple sugar industry, including a funding source or sources. In developing its recommendations, the task force shall review models that have been successfully employed to promote other Maine food product industries, including marine products and agricultural products such as potatoes and blueberries; and be it further

**Sec. 4. Meetings. Resolved:** That the chair, in consultation with the commissioner, shall schedule meetings of the task force as necessary to complete the task force's assigned duties. The commissioner shall notify members of the Joint Standing Committee on Agriculture, Conservation and Forestry and other Legislators with a known interest in the maple sugar in-

dustry of all meetings of the task force; and be it further

**Sec. 5. Staffing and funding. Resolved:** That the Department of Agriculture, Food and Rural Resources shall provide staff support to the task force from existing resources. The Department of Conservation, Bureau of Forestry and Bureau of Parks and Lands shall provide staff from existing resources to assist in discussions relating to landowner education, forest management and leasing land for maple sugar production. The commissioner and the Commissioner of Conservation may use contributions of money, services and supplies accepted under existing authority to support the work of the task force; and be it further

**Sec. 6. Agency cooperation. Resolved:** That the commissioner, the Commissioner of Conservation, the Commissioner of Economic and Community Development and the Chief Executive Officer of the Finance Authority of Maine shall each designate a representative from their respective agencies to serve as a resource to the task force, respond to information requests and attend task force meetings upon request; and be it further

**Sec. 7. Final report. Resolved:** That, no later than December 4, 2013, the commissioner shall submit a report that includes the findings and recommendations of the task force, including suggested legislation to implement the recommendations, for presentation to the joint standing committee of the Legislature having jurisdiction over agriculture matters; and be it further

**Sec. 8. Authority to submit legislation. Resolved:** That the joint standing committee of the Legislature having jurisdiction over agriculture matters may submit legislation pertaining to the Maine maple sugar industry to the Second Regular Session of the 126th Legislature.

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

Effective March 18, 2012.

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**CHAPTER 133**

**H.P. 176 - L.D. 199**

**Resolve, Directing the Secretary of State To Study Voter Participation and Registration and the Conduct of Elections in the State**

**Sec. 1. Report on voter participation, the registration of voters and the conduct of elections. Resolved:** That the Secretary of State shall conduct a study of voter participation, the current system for registering voters and the conduct of elections

in the State. The Secretary of State shall report the findings of the study and any suggested legislation recommended for introduction to the First Regular Session of the 126th Legislature to the joint standing committee of the Legislature having jurisdiction over elections matters no later than February 1, 2013.

See title page for effective date.

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**CHAPTER 134**

**H.P. 1273 - L.D. 1724**

**Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a Major Substantive Rule of the Department of Education**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A is authorized only if the following changes are made:

1. The rule must be amended in Section II to replace the definition of pre-referral procedures with language defining general education intervention;

2. The rule must be amended in Section V, subsection 6, paragraph F so that the educational observations are not described as unrestricted;

3. The rule must be amended in Section VII, subsection 1, paragraph A, subparagraph (1) in the part concerning "Eligibility Criteria For Children B-2" to include the list of conditions in the definition of "infant or toddler with a disability" that is included in 34 Code of Federal Regulations, Section 303.21 but is not included in the provisionally adopted rule;

4. The rule must be amended in Section XI to amend the definition of the term health services to be consistent with the definition as amended in 34 Code of Federal Regulations, Section 303.16; and

5. The rule must be amended in Sections XI and XVIII so that reference is made to school psychologists instead of school psychological service providers; and be it further

**Sec. 2. Authorization. Resolved:** That final adoption of certain sections and the appendix of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a provisionally adopted major substantive rule of the Department of Education, that were submitted to the 125th Legislature for review in Legislative Document 1782, House Paper 1307, "Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, Including Certain Sections and the Appendix, a Major Substantive Rule of the Department of Education," to ensure that the Chapter 101 rule complies with changes in federal regulations pertaining to the Part C provisions of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., as amended, is authorized.

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

Effective March 20, 2012.

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## CHAPTER 135

### H.P. 1300 - L.D. 1766

#### **Resolve, Regarding Legislative Review of Portions of Chapter 61: Rules for Major Capital School Construction Projects, a Major Substantive Rule of the Department of Education and the State Board of Education**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative au-

thorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 61: Rules for Major Capital School Construction Projects, a provisionally adopted major substantive rule of the Department of Education and the State Board of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective March 29, 2012.

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## CHAPTER 136

### H.P. 1308 - L.D. 1783

#### **Resolve, Regarding Legislative Review of Chapter 140: Public Charter Schools, a Major Substantive Rule of the Department of Education**

**Sec. 1. Adoption. Resolved:** That final adoption of Chapter 140: Public Charter Schools, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the rule is amended as follows:

1. By changing the name of the application form to reflect that it is a student information form;
2. By clarifying that public charter schools have to transfer student records to public noncharter schools in a timely manner;
3. By clarifying that when a public noncharter school that is the only public school option for students in the school administrative unit chooses to convert to a public charter school, town approval is determined by referendum;

4. By clarifying that when the department is determining the 5% or 10% enrollment limits, it excludes from the base enrollment previously enrolled students in the public charter school;

5. By conforming transportation funding and gifted and talented funding descriptions to reflect changes in the law; and

6. By adding a plan for the provision of special education services to the charter school application process.

See title page for effective date.

**CHAPTER 137**

**H.P. 1313 - L.D. 1788**

**Resolve, Regarding Legislative Review of Portions of Chapter 64: Maine School Facilities Program and School Revolving Renovation Fund, a Major Substantive Rule of the Department of Education and the Maine Municipal Bond Bank**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 64: Maine School Facilities Program and School Revolving Renovation Fund, a provisionally adopted major substantive rule of the Department of Education and the Maine Municipal Bond Bank that has been submitted to the Legislature for review pursuant to the Maine Revised

Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the following changes are made:

1. The rule must be amended in Section 4, paragraph C by striking the new sentence that provides the Commissioner of Education with the authority to determine which renovation project categories would be funded; and

2. The rule must be amended in Section 4, paragraph C by adding new language that provides that approved projects must be funded based on the availability of funds and in priority order from priority one to priority 5. The Commissioner of Education may approve funding for renovation projects as an exception to the priority one to priority 5 funding rule if category-specific funds become available from sources other than principal and interest received from the repayment of loans made from the fund, interest earned from the investment of fund balances and funds from school construction audit recoveries.

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

Effective March 29, 2012.

**CHAPTER 138**

**H.P. 1314 - L.D. 1789**

**Resolve, Regarding Legislative Review of Portions of Chapter 316: Long-Term Contracting and Resource Adequacy, a Major Substantive Rule of the Public Utilities Commission**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 316: Long-Term Contracting and Resource Adequacy, a provisionally adopted major substantive rule of the Public Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the commission:

1. Incorporates the changes made by Public Law 2011, chapter 413, sections 2 and 3 to the section of the rule related to energy efficiency long-term contracts.

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

Effective March 29, 2012.

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### CHAPTER 139

H.P. 1320 - L.D. 1794

**Resolve, Regarding Legislative Review of Portions of Chapter 378: Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products, a Major Substantive Rule of the Department of Environmental Protection**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 378: Variance Criteria for the Excavation of Rock, Borrow, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products, a provisionally adopted major substantive rule of the Department of Environmental Protection that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective March 29, 2012.

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### CHAPTER 140

H.P. 1323 - L.D. 1797

**Resolve, Regarding Legislative Review of Portions of Chapter 305: Permit by Rule, a Major Substantive Rule of the Department of Environmental Protection**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 305: Permit by Rule, a provisionally adopted major substantive rule of the Department of Environmental Protection that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective March 29, 2012.

**CHAPTER 141**

**H.P. 1340 - L.D. 1817**

**Resolve, Regarding Access to Eastern Road in Scarborough**

**Preamble.** The Constitution of Maine, Article IX, Section 23 requires that real estate held by the State for conservation or recreation purposes may not be reduced or its uses substantially altered except on the vote of 2/3 of all members elected to each House.

**Whereas,** certain real estate authorized for conveyance by this resolve is under the designations described in the Maine Revised Statutes, Title 12, section 598-A; now, therefore, be it

**Sec. 1. Acquisition of easement for access to Eastern Road in the Town of Scarborough.**

**Resolved:** That the Department of Inland Fisheries and Wildlife, referred to in this resolve as "the department," shall convey a nonexclusive easement for farm, conservation and residential use to Anthony Attardo and Anthony Attardo, Jr., referred to in this resolve as "the Attardos," through and across Eastern Road in the Town of Scarborough, running westerly from the intersection of Eastern Road with the westerly side of Black Point Road to the westerly sideline of Anthony Attardo, Jr.'s lot as the westerly terminus; which non-exclusive easement does not significantly or unreasonably interfere with any use contemplated for Eastern Road or the Scarborough Marsh Wildlife Management Area; and be it further

**Sec. 2. Consideration for easement.**

**Resolved:** That the Attardos shall grant to the department an easement in a mutually acceptable location for maintenance, running from Eastern Road southerly across the land of the Attardos situated on the easterly side of Black Point Road, for the purpose of maintaining undeveloped lands owned or controlled by the department, which easement benefits the department and the people of the State by providing an access near the Scarborough Marsh Wildlife Management Area that will allow the department to better manage the area, and this benefit exceeds any loss of value due to the nonexclusive easement conveyed in section 1. The Attardos shall reimburse the department for the department's legal expenses up to \$2,800. The granting of the easement to the department and the paying of the department's legal fees are the only considerations that are required of the Attardos in return for the non-exclusive easement conveyed under section 1; and be it further

**Sec. 3. Transfer. Resolved:** That, no later than 14 calendar days after the effective date of this resolve, the department shall submit any required application and related documents to the United States Department of the Interior, United States Fish and Wildlife Service to obtain the approval of the service to grant the easement in section 1 and the department shall deliver the deeds conveying the easement under section 1 to the Attardos no later than 60 days after all necessary permits and approvals have been received from the service; and be it further

**Sec. 4. Resolve 2011, c. 57, repealed. Resolved:** That Resolve 2011, c. 57 is repealed.

See title page for effective date.

**CHAPTER 142**

**H.P. 1246 - L.D. 1694**

**Resolve, Directing the Department of Health and Human Services To Review Rules Governing Reimbursement to MaineCare Recipients for Transportation to and from MaineCare Services**

**Sec. 1. Review; rules. Resolved:** That the Department of Health and Human Services shall review reimbursement under the MaineCare program for transportation of MaineCare members to and from MaineCare services, including but not limited to methadone treatment services at freestanding methadone clinics, in order to improve consistency across the State, to prevent and detect fraud and to decrease costs to the MaineCare program. The department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by December 15, 2012 the results of its review, including recommendations for action by the department and the Legislature.

In conducting the review required by this resolve, the department shall:

1. Solicit input from health care providers, the MaineCare advisory committee within the Department of Health and Human Services, regional transportation providers and freestanding methadone clinics throughout the State regarding potential use of transportation brokers across the State, protocols used to confirm member eligibility for transportation services, methods for arranging, scheduling and verifying the use of transportation services, methods to obtain patient consent and methods for sharing information among the patient, the health care provider or the freestanding methadone clinic, the transportation provider and the

office of MaineCare services within the Department of Health and Human Services;

2. Solicit input from district attorneys regarding any instances of suspected or confirmed fraud in MaineCare reimbursement for transportation to and from health care providers and methadone treatment services at freestanding methadone clinics;

3. Review the requirements for member eligibility for transportation services, including verification of the member's place of residence, transportation reimbursement that is limited to the closest health care provider, requirements for requesting and scheduling transportation services and options and procedures for terminating transportation reimbursement for a member who violates department rules or requirements of a health care provider or freestanding methadone clinic;

4. Review, establish a timeline for and report on progress toward a regional transportation system for serving MaineCare members that uses transportation brokers, pays a flat rate per month per MaineCare member to the transportation broker and provides some degree of standardization across the State; and

5. Review options for limiting transportation reimbursement allowable under federal law and regulation and options for coordinating transportation services in order to decrease costs when transportation is needed for more than one type of MaineCare service.

See title page for effective date.

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## CHAPTER 143

H.P. 1317 - L.D. 1792

**Resolve, Regarding Legislative  
Review of Portions of Chapter  
421: Safety and Operation  
Standards for Liquefied  
Petroleum Gas (LPG)  
Distribution Systems, a Major  
Substantive Rule of the Public  
Utilities Commission**

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 421: Safety and Operation Standards for Liquefied Petroleum Gas (LPG) Distribution Systems, a provisionally adopted major substantive rule of the Public Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the commission:

1. Removes the definition of "customer";

2. Amends the rule to clarify that a liquefied petroleum gas system operator is any person who owns and engages in the transportation of liquefied petroleum gas through a jurisdictional liquefied petroleum gas system or a person who is contracted to serve as the operator by a person who owns and engages in the transportation of liquefied petroleum gas through a jurisdictional liquefied petroleum gas system;

3. Adds a provision that requires by July 1, 2012 liquefied petroleum gas suppliers to implement modified operation and maintenance procedures that include a "Red Tag" or hazardous equipment procedure for suspending service to a customer and marking the customer's system when a hazardous condition is noted that makes the continued delivery of liquefied petroleum gas unsafe;

4. Amends the rule so that liquefied petroleum gas system operators are not required to keep records for more than one year unless required by federal law;

5. Amends the rule so that liquefied petroleum gas system operators are not required to promote to excavators the "811" and "OK to Dig" notification process;

6. Amends the rule to allow the commission to grant a liquefied petroleum gas system operator 30 days in which to take corrective action before the commission issues a formal written notice of probable violation when an evaluation of an operator's records and facilities indicates that the operator is violating the rule or applicable state or federal law; and

7. Amends the rule by striking provisions related to requirements that apply when snow can be expected to cover any liquefied petroleum gas tank.

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

Effective March 30, 2012.

**CHAPTER 144**

**S.P. 546 - L.D. 1647**

**Resolve, To Require Rulemaking Regarding Standing To Appeal in Proceedings before the Board of Environmental Protection and the Maine Land Use Regulation Commission**

**Sec. 1. Standing governing administrative appeals to the Maine Land Use Regulation Commission. Resolved:** That the Maine Land Use Regulation Commission shall adopt rules to conform the standards for standing to appeal a decision to the commission to the judicial standards for standing to appeal a decision of the commission to court. Rules adopted pursuant to this section are major substantive rules under the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A and are subject to legislative review by the joint standing committee of the Legislature having jurisdiction over judiciary matters; and be it further

**Sec. 2. Standing governing administrative appeals to the Board of Environmental Protection. Resolved:** That the Board of Environmental Protection shall adopt rules to conform the standards for standing to appeal a decision to the board to the judicial standards for standing to appeal a decision of the board to court. Notwithstanding the Maine Revised Statutes, Title 38, section 341-H, rules adopted by the board pursuant to this section are major substantive rules under Title 5, chapter 375, subchapter 2-A and are subject to legislative review by the joint standing committee of the Legislature having jurisdiction over judiciary matters.

See title page for effective date.

**CHAPTER 145**

**H.P. 739 - L.D. 1003**

**Resolve, To Assist Maine Schools To Obtain Federal Funds for Medically Necessary Services**

**Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergency; and

**Whereas,** this resolve is intended to provide guidance regarding those portions of the Department of Health and Human Services' MaineCare rules that relate to implementation of special education and related services provided through the Child Development Services System and school administrative units to eligible children served in these settings; and

**Whereas,** it is critical that the Department of Education and the Department of Health and Human Services work together with key stakeholders to develop refinements to existing MaineCare policies or develop new policies and guidance on billing procedures as soon as possible to ensure the provision of medically necessary services to students in school-based settings; and

**Whereas,** the Department of Education and the Department of Health and Human Services must begin the process of refining current MaineCare policies, developing guidance on billing procedures and preparing any necessary revisions to the state plan to submit to the Federal Government for review and approval prior to the adoption of rules governing Medicaid payment for medically necessary services to eligible children in school-based settings that qualify for reimbursement; 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

**Sec. 1. Refinement of MaineCare policies. Resolved:** That the Department of Education and the Department of Health and Human Services, referred to in this section as "the departments," shall work together to refine existing policies, develop new policies or prepare nonregulatory guidance on billing procedures, as appropriate, to ensure the provision of medically necessary services to students in school-based settings. The refinements to MaineCare policies must:

1. Be in compliance with federal law;
2. Provide local school districts with options and give them the authority to choose the best option with regard to local needs and capacities;
3. Take into consideration the input of stakeholders, including representatives of the Department of Education, the Department of Health and Human Services, the Child Development Services System, the Maine School Management Association, the Maine Administrators of Services for Children with Disabilities and special purpose private schools and agencies that are approved to provide early intervention or special education programs pursuant to the Maine Re-

vised Statutes, Title 20-A, section 7252-B. In order to gather input from stakeholders, the departments shall establish work groups to explore problems with current Medicaid policies and to consider possible solutions to both policies and billing processes. The work groups must include stakeholders and representatives of the following groups, who participate as nonvoting members:

A. Two representatives of parents of children with developmental delays or disabilities, one who is appointed by the Disability Rights Center and one who is appointed by the Maine Developmental Disabilities Council; and

B. Two representatives of directly affected local school administrative units with expertise in this area, one who is appointed by the President of the Senate and one who is appointed by the Speaker of the House;

4. Include provisions for training and support for school staff, including the development of policy and billing manuals and other resources written with school-based providers in mind; and

5. Set up an interagency stakeholder body, including representatives of the Department of Education, the Department of Health and Human Services, the Child Development Services System, the Maine School Management Association, the Maine Administrators of Services for Children with Disabilities and special purpose private schools and agencies that are approved to provide early intervention or special education programs pursuant to the Maine Revised Statutes, Title 20-A, section 7252-B, to coordinate the implementation of the program refinements. The interagency stakeholder body must also include representatives of the following groups, who participate as nonvoting members:

A. Two representatives of parents of children with developmental delays or disabilities, one who is appointed by the Disability Rights Center and one who is appointed by the Maine Developmental Disabilities Council; and

B. Two representatives of directly affected local school administrative units with expertise in this area, one who is appointed by the President of the Senate and one who is appointed by the Speaker of the House; and be it further

**Sec. 2. State plan amendment. Resolved:**

That, after due consideration of the input of the stakeholders and relevant work groups established pursuant to section 1, if determined to be appropriate by the Department of Education and the Department of Health and Human Services, the Department of Health and Human Services shall propose changes to the state

plan for Medicaid services provided pursuant to the Maine Revised Statutes, Title 22, chapter 855 to permit reimbursement for school-based services by July 1, 2012; and be it further

**Sec. 3. Report to Legislature. Resolved:**

That the Department of Education and the Department of Health and Human Services shall report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters on March 30, 2012 on the status of the work undertaken to that date pursuant to this resolve. The report must include, but is not limited to, a timeline that establishes specific dates for each of the following initiatives:

1. Proposed policy changes, including refinements to existing policies, new policies to be developed or the preparation of nonregulatory guidance on billing procedures;

2. A communication plan to provide details on the implementation of proposed policy changes to the field;

3. A plan to provide the training required to school administrative units and the Child Development Services System;

4. A detailed budget, including the amount and sources of funding and other resources needed to implement proposed policy changes;

5. If determined to be appropriate by the Department of Education and the Department of Health and Human Services, a plan to make any necessary changes to rules; and

6. If determined to be appropriate by the Department of Education and the Department of Health and Human Services, a timeline for the preparation, submission and anticipated approval of amendments to the state plan for Medicaid services provided pursuant to the Maine Revised Statutes, Title 22, chapter 855 related to the provision of medically necessary services to eligible children in school-based settings.

In addition, the Department of Education and the Department of Health and Human Services shall jointly submit a status report on a monthly basis through June 2012 on the work completed by the Department of Education and the Department of Health and Human Services and the interagency stakeholder body pursuant to this resolve; and be it further

**Sec. 4. Goal. Resolved:** That the goal of this resolve is to make sure eligible children get the services they need in the settings they need them in and to ensure those services that qualify as medically necessary services are reimbursed.

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

Effective April 4, 2012.

**CHAPTER 146**

**H.P. 1360 - L.D. 1838**

**Resolve, Regarding  
Legislative Review of Chapter  
33: Regulations Governing  
Timeout Rooms, Therapeutic  
Restraints and Aversives in  
Public Schools and Approved  
Private Schools, a Major  
Substantive Rule of the  
Department of Education**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of Chapter 33: Regulations Governing Timeout Rooms, Therapeutic Restraints and Aversives in Public Schools and Approved Private Schools, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised

Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the following changes are made:

1. The rule must be amended in section 2 to provide that public charter schools are covered entities;

2. The rule must be amended in section 2 to clarify that physical restraint does not include:

A. Physical contact when the purpose of the contact is to comfort a student and the student voluntarily accepts the contact; or

B. Momentarily deflecting the movement of a child when the child's movements would be destructive, harmful or dangerous to the child or to others;

3. The rule must be amended in section 6 to clarify that when a staff person who is not certified in a state-approved training program initiates physical restraint, trained personnel must be summoned to the scene only if the emergency situation continues;

4. The rule must be amended in section 7 to clarify that a staff person who initiates physical restraint or seclusion that involves a student who has been placed in an out-of-district placement must report the incident to the entity responsible for the student's education within 24 hours or by the next business day;

5. The rule must be amended in section 8 to clarify that the incident report documenting the use of physical restraint or seclusion must indicate if any of the personnel involved in the incident were certified in a state-approved training program; and

6. The rule must be amended in section 12 to clarify that the state-approved training programs may include regional training programs and regional "train the trainer" program models to provide the required training for personnel in the covered entities; and be it further

**Sec. 2. Department of Education; non-regulatory guidance. Resolved:** That, no later than September 1, 2012, the Department of Education shall provide nonregulatory guidance to school administrative units, public charter schools, private schools and other covered entities that are subject to the requirements of Chapter 33: Regulations Governing Timeout Rooms, Therapeutic Restraints and Aversives in Public Schools and Approved Private Schools. The guidance provided by the department to the covered entities must include, but is not limited to, examples of what is and is not considered to be physical restraint or seclusion. The guidance must be disseminated to all covered entities in writing, and the department shall post the guidance on the department's publicly accessible website.

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

Effective April 4, 2012.

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**CHAPTER 147**  
**S.P. 570 - L.D. 1671**

**Resolve, To Require the  
Department of Transportation  
To Facilitate and Oversee a  
Study of the Feasibility of an  
East-west Highway**

**Sec. 1. Department of Transportation to facilitate and oversee a study of the feasibility of an east-west highway. Resolved:** That the Department of Transportation shall facilitate and oversee an independent investment-grade traffic and revenue analysis to assess the feasibility of a privately funded, privately operated and publicly accessible east-west highway; and be it further

**Sec. 2. Reporting date established. Resolved:** That the Department of Transportation shall report the study findings to the joint standing committee of the Legislature having jurisdiction over transportation matters by January 15, 2013; and be it further

**Sec. 3. Reimbursement for cost of analysis. Resolved:** That, upon obtaining final authorization to construct an east-west highway, the developer shall reimburse the Department of Transportation for the cost of the analysis under section 1.

See title page for effective date.

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**CHAPTER 148**  
**S.P. 444 - L.D. 1437**

**Resolve, Directing the Maine  
Economic Growth Council To  
Develop the Maine Prosperity  
Action Plan of 2012**

**Preamble. Whereas,** per capita income in the other New England states is 38% higher than per capita income in Maine; and

**Whereas,** numerous advisory groups have convened in recent years to assess Maine's policy environment, government systems and public sector costs, with the objective of creating a more prosperous Maine economy; and

**Whereas,** the reports that have emerged from these efforts have been widely praised and overlap substantially in their recommendations; and

**Whereas,** although these reports have informed ongoing work by legislative policy committees and have influenced legislation on certain issues, those reports have not been translated into a single, comprehensive, economically transformative and legislatively specific action plan; and

**Whereas,** the Maine Economic Growth Council is a 19-member panel of established and trusted Maine leaders, appointed jointly over time by the Governor, the President of the Senate and the Speaker of the House of Representatives and empowered by statute to set the long-term plan for the sustainable economic development of Maine; and

**Whereas,** the Maine Economic Growth Council appointees are established Maine leaders who have earned broad respect for their leadership, vision and commitment to Maine and have broad public credibility and a deep understanding of Maine's economic conditions, challenges and opportunities; now, therefore, be it

**Sec. 1. Development of Maine Prosperity Action Plan. Resolved:** That the Maine Economic Growth Council, established in the Maine Revised Statutes, Title 10, section 929-A and referred to in this resolve as "the council," shall develop the Maine Prosperity Action Plan, referred to in this resolve as "the plan," which must contain a comprehensive and specific action plan for a sustainable state economy. In developing the plan, the council shall undertake a thorough review of the proposals and recommendations contained in recent reports assessing the State's policy environment, government systems and public sector costs, with the objective of creating a more prosperous Maine economy. Specifically, the council's review must include its own annual report on economic indicators, "Measures of Growth in Focus," as well as:

1. "Charting Maine's Future: An Action Plan for Promoting Sustainable Prosperity and Quality Places," prepared by the Brookings Institution in collaboration with GrowSmart Maine and published in 2006;

2. "Time for Change," the final report of the Joint Select Committee on Future Maine Prosperity, issued in 2008;

3. "Reinventing Maine Government," prepared by Invision Maine and published in 2010; and

4. "Making Maine Work: Critical Investments for the Maine Economy," the 3-part series prepared by the Maine State Chamber of Commerce and the Maine Development Foundation and published in 2010 to 2012.

After reviewing the recommendations and reports, the council shall identify those proposals it determines offer the most potential for positively transforming economic conditions in the State, extract from those proposals concrete proposals for legislative action and translate them into proposed legislation; and be it further

**Sec. 2. Staff assistance. Resolved:** That the council shall contract with the Maine Development Foundation for primary staff support to carry out the purposes of this resolve; and be it further

**Sec. 3. Outside funding. Resolved:** That the council shall seek outside funding to fund the costs of developing the plan. The council may not accept contributions from any party having a pecuniary or other vested interest in the outcome of the plan. To the extent that outside contributions are inadequate to fully fund all costs of developing the plan, the council is not required to develop the plan; and be it further

**Sec. 4. Report. Resolved:** That the council shall submit the plan, including any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters no later than December 5, 2012. The joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters is authorized to report out a bill to implement the recommendations to the First Regular Session of the 126th Legislature.

See title page for effective date.

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**CHAPTER 149**

**S.P. 641 - L.D. 1846**

**Resolve, Directing the  
Department of Environmental  
Protection To Adopt Rules  
Pertaining to Petroleum  
Storage and Gravel Pits**

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

**Whereas,** rules of the Department of Environmental Protection do not allow aboveground oil storage tanks in significant sand and gravel aquifers; and

**Whereas,** a majority of gravel pits in the State are located in significant sand and gravel aquifers and therefore gravel pit operators are not permitted to fuel heavy equipment on site without undertaking an onerous and complicated process or using temporary fueling trucks, which are less protective of the environment; and

**Whereas,** immediate enactment of this legislation will facilitate quick adoption of an amended department rule; 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

**Sec. 1. Department of Environmental Protection; adopt emergency rule; aboveground oil storage tanks. Resolved:** That, notwithstanding Public Law 2007, chapter 569, section 7, the Commissioner of Environmental Protection shall adopt an emergency rule pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2 to allow aboveground oil storage tanks that are used for the supply of diesel fuel to be located in excavations for borrow, clay, topsoil or silt and quarries that are in significant sand and gravel aquifers. An emergency rule adopted pursuant to this section is a routine technical rule as defined in Title 5, chapter 375, subchapter 2-A. Following adoption of the emergency rule, the commissioner shall complete nonemergency routine technical rulemaking to allow aboveground oil storage tanks that are used for the supply of diesel fuel to be located in excavations for borrow, clay, topsoil or silt and quarries that are in significant sand and gravel aquifers. Subsequent amendments to the rule are major substantive rules and must be adopted by the Board of Environmental Protection in accordance with Title 38, section 341-H.

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

Effective April 6, 2012.

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**CHAPTER 150**

**H.P. 1396 - L.D. 1893**

**Resolve, Regarding Legislative  
Review of Portions of  
Chapter 850: Health Plan  
Accountability, a Major  
Substantive Rule of the  
Department of Professional  
and Financial Regulation**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative au-

thorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas**, the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas**, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 850: Health Plan Accountability, a provisionally adopted major substantive rule of the Department of Professional and Financial Regulation that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the provision related to access to behavioral health care practitioners is amended to require the reasonable availability of those practitioners within a carrier's delivery system.

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

Effective April 6, 2012.

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**CHAPTER 151**

**H.P. 1341 - L.D. 1819**

**Resolve, Regarding Legislative Review of Chapter 26: Producer Margins, a Major Substantive Rule of the Maine Milk Commission**

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

**Whereas**, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas**, the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas**, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of Chapter 26: Producer Margins, a provisionally adopted major substantive rule of the Maine Milk Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is not authorized.

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

Effective April 9, 2012.

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**CHAPTER 152**

**S.P. 674 - L.D. 1898**

**Resolve, Authorizing the Lease of the Guy P. Gannett House in Augusta to a Nonprofit Organization for Use as a Museum**

**Sec. 1. Definitions. Resolved:** That, as used in this resolve, the following terms have the following meanings.

1. "Commissioner" means the Commissioner of Administrative and Financial Services.

2. "State property" means the real estate described in section 3 of this resolve with the buildings and improvements, together with all appurtenant rights and easements, and all personal property located on that property, including vehicles, machinery, equipment and supplies; and be it further

**Sec. 2. Authority to lease state property. Resolved:** That the State, by and through the commissioner, may:

1. Enter into a lease or leases of the interests of the State in the state property; and

2. Establish any rent and lease terms; and be it further

**Sec. 3. Property interests that may be leased. Resolved:** That the state property authorized to be leased is the following:

Real estate located at 184 State Street in the City of Augusta, Maine and known as the Guy P. Gannett House; and be it further

**Sec. 4. Property to be leased only to a nonprofit organization for use as a museum. Resolved:** That the commissioner may negotiate and execute leases upon terms the commissioner considers appropriate; however, the state property may be leased only to a nonprofit organization for use as a museum; and be it further

**Sec. 5. Exemptions. Resolved:** That any lease pursuant to this resolve is exempt from the provisions of the Maine Revised Statutes, Title 5, section 1783 and is exempt from any statutory or regulatory requirement that the property first be offered to another state or local agency or offered for lease through competitive bidding; and be it further

**Sec. 6. Repeal. Resolved:** That this resolve is repealed 2 years after its effective date.

See title page for effective date.

**CHAPTER 153**

**S.P. 669 - L.D. 1891**

**Resolve, To Amend the Pilot Project for Independent Practice Dental Hygienists To Process Radiographs in Underserved Areas of the State**

**Sec. 1. Resolve 2011, c. 67, §1, first ¶, amended. Resolved:** That Resolve 2011, c. 67, §1, first ¶ is amended to read:

**Sec. 1. Pilot project for underserved areas of the State. Resolved:** That the Department of Professional and Financial Regulation, Board of Dental Examiners shall establish a ~~2-year~~ pilot project to allow a licensed independent practice dental hygienist to expose and process radiographs under protocols developed by the Board of Dental Examiners within areas of the State that have been designated by the United States Department of Health and Human Services as dental health professional shortage areas.

; and be it further

**Sec. 2. Resolve 2011, c. 67, §1, amended. Resolved:** That Resolve 2011, c. 67, §1 is amended by adding after the 2nd paragraph the following:

The rules for the pilot project must allow an independent practice dental hygienist to expose and process all dental radiographs, including but not limited to:

1. Vertical and horizontal bitewing films;
2. Periapical films;
3. Panoramic images; and
4. Full-mouth series.

; and be it further

**Sec. 3. Resolve 2011, c. 67, §1, last ¶, amended. Resolved:** That Resolve 2011, c. 67, §1, last ¶ is amended to read:

The pilot project terminates March 15, ~~2014~~ 2015; and be it further

See title page for effective date.

**CHAPTER 154**

**S.P. 532 - L.D. 1622**

**Resolve, Regarding the Laws Governing Electric Industry Restructuring**

**Sec. 1. Report. Resolved:** That the Public Utilities Commission shall submit a report summarizing its findings and decision related to Docket No. 2011-170 pertaining to the request by the Bangor Hydroelectric Company for exemption and for reorganization approvals to the joint standing committee of the Legislature having jurisdiction over energy, utilities and technology matters by December 15, 2012.

See title page for effective date.

**CHAPTER 155**

**H.P. 1336 - L.D. 1812**

**Resolve, Directing the Department of Health and Human Services To Submit an Application for a Waiver from the United States Department of Agriculture**

**Sec. 1. Department of Health and Human Services to seek federal waiver. Resolved:** That the Department of Health and Human Services shall submit an application for a waiver from the requirements of federal law and regulations to the United States Department of Agriculture. The waiver must seek approval for the Department of Health and Human Services to amend its rules to require a person to show photographic identification in order to use an electronic benefits transfer card when it is requested in an establishment that accepts Supplemental Nutritional Assistance Program benefits. The Department of Health and Human Services shall submit the application for a waiver by October 1, 2012; and be it further

**Sec. 2. Department of Health and Human Services to continue to develop strategies to combat fraud and abuse. Resolved:** That the Department of Health and Human Services shall continue to develop strategies to combat fraud and abuse in the use of electronic benefits transfer cards to access

Supplemental Nutritional Assistance Program benefits. The Department of Health and Human Services shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on its progress in developing new strategies to combat fraud and abuse in the Supplemental Nutritional Assistance Program by December 1, 2012.

See title page for effective date.

**CHAPTER 156**

**H.P. 1220 - L.D. 1611**

**Resolve, To Create a License Plate To Recognize the 2014 World Acadian Congress**

**Sec. 1. World Acadian Congress plate. Resolved:** That, notwithstanding the Maine Revised Statutes, Title 29-A, section 454, the Secretary of State shall issue, at no cost to the Secretary of State, a reflectorized, commemorative, simulated registration plate in recognition and celebration of the 2014 World Acadian Congress, a festival of Acadian and Cajun culture and history, to be held in Maine in partnership with New Brunswick and Quebec, Canada. The Secretary of State shall design the plate in consultation with Comité organisateur du Congrès mondial acadien 2014, and the plate must bear the date of its expiration, which is December 31, 2015. The World Acadian Congress commemorative plate may be displayed by covering, but not removing, the front registration plate on a motor vehicle, except a truck tractor as defined in Title 29-A, section 101, subsection 90, including a motor vehicle registered outside this State and operated within it, until December 31, 2015; and be it further

**Sec. 2. Administrative fee; distribution. Resolved:** That the Secretary of State shall develop a plan for the sale and distribution of World Acadian Congress commemorative plates. The fee for the World Acadian Congress commemorative plate is \$25, which must be deposited in a special fund and transferred quarterly by the Treasurer of State as follows:

1. Nine dollars per plate to the Secretary of State for the costs associated with production and issuance of the plates; and
2. Sixteen dollars per plate to the Maine Acadian Heritage Council; and be it further

**Sec. 3. Other uses prohibited. Resolved:** That a World Acadian Congress commemorative plate may not be sold or displayed except as provided in this resolve; and be it further

**Sec. 4. Appropriations and allocations. Resolved:** That the following appropriations and allocations are made.

**SECRETARY OF STATE, DEPARTMENT OF Administration - Motor Vehicles 0077**

Initiative: Provides funding for materials to manufacture special commemorative license plates celebrating the World Acadian Congress.

HIGHWAY FUND	2011-12	2012-13
All Other	\$0	\$6,963
<b>HIGHWAY FUND TOTAL</b>	<b>\$0</b>	<b>\$6,963</b>

See title page for effective date.

**CHAPTER 157**

**H.P. 1404 - L.D. 1902**

**Resolve, Regarding Legislative Review of Chapter 30: Maine Uniform Accounting and Auditing Practices for Community Agencies, a Major Substantive Rule of the Department of Health and Human Services**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of Chapter 30: Maine Uniform Accounting and Auditing Practices for Community Agencies, a provisionally adopted major substantive rule of the Department of Health and Human Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the rule is

amended to reflect that restricted revenue is income from organizations and individuals that require the funds to be used for a specific purpose within a program and unrestricted revenue is revenue from funding sources to a community agency that is not restricted for a particular purpose within a program by the donor. The rule must reflect that revenue that has been designated to a specific program, but not for a specific purpose, is considered unrestricted revenue.

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

Effective April 18, 2012.

**CHAPTER 158**

**H.P. 1410 - L.D. 1906**

**Resolve, Regarding Legislative Review of Portions of Chapter 3: Maine Clean Election Act and Related Provisions, a Major Substantive Rule of the Commission on Governmental Ethics and Election Practices**

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

**Whereas,** the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 3: Maine Clean Election Act and Related Provisions, a provisionally adopted major substantive rule of the Commission on Governmental Ethics and Election Practices that has

been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective April 18, 2012.

**CHAPTER 159**

**H.P. 1394 - L.D. 1886**

**Resolve, Directing Review of Strategies To Improve Communication between Patients and Physicians**

**Sec. 1. Review and report. Resolved:** That the Department of Health and Human Services, Maine Center for Disease Control and Prevention, referred to in this section as "the center," in conjunction with the Maine Medical Association, shall convene a work group to review and report on strategies to improve the dialogue between patients and physicians regarding breast density and breast imaging options. The center shall invite the participation in the work group of representatives of the Maine Osteopathic Association, the Maine Radiological Society, the Density Education National Survivors' Efforts, the Maine Breast Nurse Network, Spectrum Medical Group, a small independent radiographic provider, other radiographic practice groups and hospital-employed radiologists, the Maine Breast Cancer Coalition, the Maine Cancer Consortium, Are You Dense, Inc., the Maine Cancer Foundation, the American Cancer Society and Susan G. Komen for the Cure. The work group shall review breast imaging standards, the federal Mammography Quality Standards Act and breast imaging results protocols and recommend strategies to improve the dialogue between patients and physicians regarding breast density and breast imaging options. The work group shall convene no later than September 1, 2012, and the center shall submit a report with recommendations of the work group by December 7, 2012 to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The center shall perform the work required by this resolve within existing resources.

See title page for effective date.

**CHAPTER 160**  
**H.P. 1418 - L.D. 1914**

**Resolve, Regarding Legislative  
Review of Portions of Chapter  
101, MaineCare Benefits  
Manual, Chapter III, Section  
32: Allowances for Waiver  
Services for Children with  
Intellectual Disabilities or  
Pervasive Developmental  
Disorders, a Major Substantive  
Rule of the Department of  
Health and Human Services**

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

**Whereas**, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas**, the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas**, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 32: Allowances for Waiver Services for Children with Intellectual Disabilities or Pervasive Developmental Disorders, a provisionally adopted major substantive rule of the Department of Health and Human Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized.

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

Effective April 23, 2012.

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**CHAPTER 161**  
**H.P. 1419 - L.D. 1915**

**Resolve, Regarding Legislative  
Review of Portions of Chapter  
101, MaineCare Benefits  
Manual, Chapter III, Section  
50, Principles of  
Reimbursement for  
Intermediate Care Facilities  
for the Mentally Retarded  
(ICF-MR) Services, a Major  
Substantive Rule of the  
Department of Health and  
Human Services**

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

**Whereas**, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas**, the above-named major substantive rule has been submitted to the Legislature for review; and

**Whereas**, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 101, MaineCare Benefits Manual, Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded (ICF-MR) Services, a provisionally adopted major substantive rule of the Department of Health and Human Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized if the rule is amended to bring the distribution of new funding from the increase in tax from 5.5% to 6% into conformance with the funding requirements of Title 36, section 2873, subsection 4, paragraph B and to bring the language of the rule into conformance with Public Law 2011, chapter 542.

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

Effective April 23, 2012.

**CHAPTER 162**

**H.P. 1257 - L.D. 1705**

**Resolve, To Create the Task Force on the Prevention of Sexual Abuse of Children**

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

**Whereas,** the Task Force on the Prevention of Sexual Abuse of Children is established to create and adopt a policy addressing sexual abuse of children; and

**Whereas,** the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; 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

**Sec. 1. Task force established. Resolved:** That the Task Force on the Prevention of Sexual Abuse of Children, referred to in this resolve as "the task force," is established; and be it further

**Sec. 2. Task force membership. Resolved:** That the task force consists of 13 members appointed as follows:

1. Two members of the Senate, appointed by the President of the Senate;
2. A representative of an organization representing law enforcement, appointed by the President of the Senate;
3. A representative of a statewide professional teachers organization, appointed by the President of the Senate;
4. Two members of the House of Representatives, appointed by the Speaker of the House;
5. A representative of a sexual assault crisis and support center involved in the prevention of child sexual abuse, appointed by the Speaker of the House;
6. A person who is a victim of sexual abuse, appointed by the Speaker of the House;

7. A representative of an organization representing school management, appointed by the Speaker of the House;

8. A representative of a statewide coalition against sexual assault, appointed by the President of the Senate;

9. The Commissioner of Education, or the commissioner's designee;

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

11. A representative of a community-based youth-serving organization, appointed by the President of the Senate; and be it further

**Sec. 3. Compensation. Resolved:** That, notwithstanding Joint Rule 353, public members of the task force are not entitled to reimbursement for their expenses; and be it further

**Sec. 4. Chairs. Resolved:** That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the task force; and be it further

**Sec. 5. Appointments; convening of task force. Resolved:** That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the task force. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the task force to meet and conduct its business; and be it further

**Sec. 6. Duties. Resolved:** That the task force shall make recommendations for preventing child sexual abuse. In making those recommendations, the task force shall:

1. Gather information concerning child sexual abuse throughout the State;
2. Receive reports and testimony from individuals, state and local agencies, community-based organizations and other public and private organizations; and
3. Recommend policies to prevent and address sexual abuse of children, including age-appropriate curricula for students in prekindergarten to grade 5; methods for increasing teacher, student and parent awareness of issues regarding sexual abuse of children, including warning signs indicating that a child may be a victim of sexual abuse; actions that a child who is a victim of sexual abuse may take to obtain assistance and intervention; and available counseling options for children affected by sexual abuse; and be it further

**Sec. 7. Staff assistance. Resolved:** That, notwithstanding Joint Rule 353, the Legislative Council shall provide necessary staffing services to the task force; and be it further

**Sec. 8. Report. Resolved:** That, no later than November 7, 2012, the task force shall submit a report that includes its findings and recommendations, including suggested legislation, to the joint standing committee of the Legislature having jurisdiction over health and human services matters. That joint standing committee is authorized to introduce a bill to the First Regular Session of the 126th Legislature related to the subject matter of the report.

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

Effective May 21, 2012.

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**CHAPTER 163**

**H.P. 1385 - L.D. 1871**

**Resolve, Creating an Honorable Service Plaque To Honor Maine Veterans**

**Sec. 1. Department of Defense, Veterans and Emergency Management, Bureau of Maine Veterans' Services to develop Maine Honorable Service Plaque. Resolved:** That the Director of the Bureau of Maine Veterans' Services within the Department of Defense, Veterans and Emergency Management shall create a plaque to be displayed in the Hall of Flags in the State House to honor veterans of the State who have participated in military campaigns and operations and who are not honored by existing plaques. The design of the plaque must be based upon the design of the State of Maine Gold Star Honorable Service Medal; and be it further

**Sec. 2. Funding. Resolved:** That the Director of the Bureau of Maine Veterans' Services may accept outside sources of funding to contract for the design and construction of the plaque pursuant to section 1. The director shall provide prompt notice of solicitation and acceptance of funds to the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of funds, the date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of the funds. The Executive Director of the Legislative Council shall administer any funds received; and be it further

**Sec. 3. Report; final authorization. Resolved:** That the Director of the Bureau of Maine Veterans' Services shall submit a report regarding the

proposed design and location of the plaque pursuant to section 1 to the joint standing committee of the Legislature having jurisdiction over legal and veterans affairs and the Legislative Council through the office of the Executive Director of the Legislative Council when all necessary funds are raised. The final authorization for the placement of the plaque in the State House Hall of Flags must be made by the Legislative Council; and be it further

**Sec. 4. Transfer of funds; Department of Defense, Veterans and Emergency Management. Resolved:** That, notwithstanding any other provision of law, on or before August 15, 2012 the State Controller shall transfer \$13,000 from the Veterans Services program, General Fund account within the Department of Defense, Veterans and Emergency Management to the State House and Capitol Park Commission program, Other Special Revenue Funds account within the Legislature for the design and construction of a plaque pursuant to section 1; and be it further

**Sec. 5. Appropriations and allocations. Resolved:** That the following appropriations and allocations are made.

**LEGISLATURE**

**State House and Capitol Park Commission 0615**

Initiative: Provides an allocation to contract for the design and construction of a plaque to honor veterans of the State.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$13,000
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$13,000</b>

See title page for effective date.

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**CHAPTER 164**

**S.P. 659 - L.D. 1882**

**Resolve, Directing the Committee on Veterans and Legal Affairs To Develop Legislation Establishing a Presidential Primary**

**Sec. 1. Committee to meet. Resolved:** That, by October 15, 2012 but no sooner than July 1, 2012, the Joint Standing Committee on Veterans and Legal Affairs shall hold a meeting to consider options for legislation to establish a presidential primary in the State. The committee may work with the Secretary of

State to develop the timeline for a presidential primary and to ensure compliance with existing state and federal law governing the conduct of elections and consult with representatives of political parties regarding party rules; and be it further

**Sec. 2. Report. Resolved:** That, no later than December 1, 2012, the joint standing committee of the Legislature having jurisdiction over elections matters shall complete its report detailing the options considered at its meeting held in accordance with section 1 and develop necessary implementing legislation. The joint standing committee may report out a bill to establish a presidential primary to the First Regular Session of the 126th Legislature.

See title page for effective date.

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**CHAPTER 165**

**H.P. 578 - L.D. 771**

**Resolve, To Support the Development of a Model Charter for the St. John Valley Regional Planning Commission**

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

**Whereas,** in order to provide more time for the development of a charter, this legislation needs to take effect 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,

**Sec. 1. Commissioner of Economic and Community Development to support the process to develop the St. John Valley Regional Planning Commission charter. Resolved:** That the Commissioner of Economic and Community Development shall invite representatives from the unorganized townships and following municipalities within Aroostook County to at least 2 meetings to facilitate the development of a model charter that would establish the St. John Valley Regional Planning Commission: Caswell Plantation, Cyr Plantation, Fort Kent, Frenchville, Grand Isle, Hamlin, Limestone, Madawaska, New Canada, New Sweden, St. Agatha, Stockholm, Van Buren, Wallagrass Plantation and Woodland. The commissioner shall provide assistance at the meetings to facilitate the development of a model charter for the St. John Valley Regional Planning Commission and provide assistance with identifying

any regulatory obstacles or impediments to establishing such a charter; and be it further

**Sec. 2. Report. Resolved:** That, no later than December 5, 2012, the Department of Economic and Community Development shall provide a report to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters on any meetings held under section 1. The department shall include with the report recommendations regarding the proposal to establish in law a charter for the St. John Valley Regional Planning Commission. The joint standing committee is authorized to submit a bill related to section 1 to the First Regular Session of the 126th Legislature; and be it further

**Sec. 3. Appropriations and allocations. Resolved:** That the following appropriations and allocations are made.

**ECONOMIC AND COMMUNITY DEVELOPMENT, DEPARTMENT OF**

**Administration - Economic and Community Development 0069**

Initiative: Provides one-time funds for the cost associated with staff from the Department of Economic and Community Development traveling to Aroostook County to provide assistance at a minimum of 2 meetings to facilitate the development of a model charter for the St. John Valley Regional Planning Commission.

GENERAL FUND	2011-12	2012-13
All Other	\$1,700	\$0
<b>GENERAL FUND TOTAL</b>	<b>\$1,700</b>	<b>\$0</b>

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

Effective May 29, 2012.

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**CHAPTER 166**

**H.P. 702 - L.D. 958**

**Resolve, To Authorize the Legislature To Contract for an Independent Review To Evaluate the Essential Programs and Services Funding Act**

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

**Whereas**, since enactment of the Essential Programs and Services Funding Act established under the Maine Revised Statutes, Title 20-A, chapter 606-B, the Legislature has debated both incremental and comprehensive funding reform proposals to remedy perceived flaws in the school funding formula and the state subsidy distribution mechanism; and

**Whereas**, in order to obtain information in a timely manner to make informed policy decisions, the Legislature should provide for an independent review of education finance policies and practices associated with the Essential Programs and Services Funding Act; and

**Whereas**, the Legislature should promptly contract with a qualified research entity to conduct an objective evaluation of the Essential Programs and Services Funding Act as it relates to the best practices of other states' school funding systems that are considered to be fair and equitable; 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

**Sec. 1. Legislature to contract for independent review of the essential programs and services model. Resolved:** That the Legislature, through the Joint Standing Committee on Education and Cultural Affairs, may contract with a qualified research entity to conduct pursuant to sections 5 and 6 an independent review of the Essential Programs and Services Funding Act established under the Maine Revised Statutes, Title 20-A, chapter 606-B; and be it further

**Sec. 2. Assistance; request for proposals process. Resolved:** That, at the direction of the Joint Standing Committee on Education and Cultural Affairs, referred to in this resolve as "the joint standing committee," the Office of Program Evaluation and Government Accountability, referred to in this resolve as "the office," shall develop and administer a request for proposals process to permit the Legislature, through the joint standing committee, to award a contract pursuant to section 1. The office, with the advice and assistance of the Independent Review Advisory Committee, established under section 4 and referred to in this resolve as "the advisory committee," and in consultation with and with the approval of the joint standing committee, shall:

1. Develop and administer a request for proposals process in accordance with section 3;
2. Administer the contract entered into pursuant to section 1, including monitoring the research entity's performance in meeting deadlines, providing deliver-

ables pursuant to sections 5 and 6 and complying with other terms of the contract; and

3. Within available resources, provide other assistance to the joint standing committee relating to the contract and the purposes of this resolve; and be it further

**Sec. 3. Request for proposals; standards and selection process. Resolved:** That the office, with the advice and assistance of the advisory committee, and in consultation with and with the approval of the joint standing committee, shall administer a request for proposals process in accordance with this section.

1. The qualifications of a research entity providing proposals must include, but are not limited to, the financial, technical and operational capacity of the entity to conduct state-level education policy research and fiscal analysis, as demonstrated by the entity's professional experience and expertise.

2. With the approval of the joint standing committee, the office shall issue a request for proposals and publish notice of the request on the Legislature's publicly accessible website and through advertisements in 2 or more public newspapers circulated wholly or in part in the State and may provide any further notice of the request to any other media or entities, as approved by the joint standing committee. The notice must provide that the office will accept, for 30 days after the first date of publication, proposals from qualified research entities that meet the standards approved by the joint standing committee.

3. After proposals have been received and the period for accepting proposals has expired, the office, with the advice and counsel of the advisory committee, shall evaluate the proposals and present a ranking of or recommendations regarding the proposals to the joint standing committee. The joint standing committee shall review the recommendations and choose the proposal it wishes to accept. The joint standing committee shall notify the Executive Director of the Legislative Council of its selection of a proposal. The executive director shall execute a contract with the selected research entity on behalf of the Legislature.

4. Notwithstanding the Maine Revised Statutes, Title 1, section 402, except for the name and mailing address of a research entity that submits a proposal, the proposal and all other materials prepared, used or submitted in connection with the proposal are confidential and are not subject to public review until the period for accepting proposals has expired; and be it further

**Sec. 4. Independent Review Advisory Committee. Resolved:** That the Independent Review Advisory Committee is established to advise the office and joint standing committee on matters related to developing a request for proposals and administer-

ing the contract entered into pursuant to this resolve. The advisory committee consists of the following members:

1. The Commissioner of Education or the commissioner's designee;
2. The Chair of the State Board of Education or the chair's designee;
3. A Co-director of the Education Research Institute established pursuant to the Maine Revised Statutes, Title 20-A, section 10;
4. The Executive Director of the Maine School Management Association or the executive director's designee; and
5. The Director of the Margaret Chase Smith Policy Center at the University of Maine or the director's designee who is a faculty researcher, research associate or policy fellow at the Margaret Chase Smith Policy Center.

The advisory committee shall elect a chair from among its members. The office shall provide to the members of the joint standing committee notice of the meetings of the office with the advisory committee so that members of the joint standing committee may attend; and be it further

**Sec. 5. Scope of the review. Resolved:** That the contract entered into pursuant to section 1 must require an objective evaluation of the Essential Programs and Services Funding Act and must require a review of the school funding formula. The evaluation must include, but is not limited to, comparisons between municipalities within this State and between this State and other comparable states and must address the following issues:

1. Whether the school funding formula and the subsidy distribution method in the laws of the State are fair and equitable and how the Essential Programs and Services Funding Act compares to other states' school funding systems that are considered to be fair and equitable;
2. The various ways that school funding systems in other states determine and calculate the costs and components of a comprehensive education system and the advantages and disadvantages of those different approaches;
3. The percentage of the total cost of public education that is provided by the state in other states' school funding systems and how the state share is funded in the other states;
4. The advantages and disadvantages of calculating state aid to school administrative units based on student enrollment count and property valuation;

5. How other states define a municipality's ability to pay for public education and what the arguments are in favor of and against those definitions;

6. The effectiveness of state aid provided by other states' school funding systems to support economically disadvantaged students in local school districts as compared to the support provided to economically disadvantaged students in school administrative units under the laws of the State; and

7. Changes that should be made to the definitions of the cost components and to the funding distribution method in the Essential Programs and Services Funding Act to provide adequate resources for a comprehensive education system and to more accurately determine the percentage of essential programs and services funding levels that each school administrative unit should receive from the State; and be it further

**Sec. 6. General requirements of the review. Resolved:** That the contract entered into pursuant to section 1 must require:

1. A review of previous studies and available data related to the State's school funding laws; a review of school funding systems in comparable states; an assessment of each of the issues in section 5, including the arguments in favor of and against the provisions of the State's school funding laws; recommended alternatives to the Essential Programs and Services Funding Act; and a review of:

A. The existing studies of the Essential Programs and Services Funding Act, including research that was conducted to develop the State's school funding system and research conducted since the enactment of the Essential Programs and Services Funding Act;

B. The existing school finance data collected by the Department of Education and state and local tax revenue data collected by the Department of Administrative and Financial Services, Bureau of Revenue Services related to the education finance system under the Essential Programs and Services Funding Act; and

C. The education finance systems in comparable states with an emphasis on other states in New England and states committed to education quality, student equity and taxpayer equity; and

2. An in-depth analysis of the recommended alternatives to the Essential Programs and Services Funding Act included in subsection 1 and an evaluation of:

A. The recommended alternatives necessary to provide adequate resources for a comprehensive education system and to more accurately determine the percentage of essential programs and

services funding levels that each school administrative unit should receive from the State;

B. The recommended alternatives to the definitions of the cost components and to the funding distribution method in the Essential Programs and Services Funding Act; and

C. The costs and benefits of the recommended alternatives, including comparative analyses and calculations related to education quality, student equity and taxpayer equity.

The Department of Education, the Department of Administrative and Financial Services, Bureau of Revenue Services and the Education Research Institute established pursuant to the Maine Revised Statutes, Title 20-A, section 10 shall provide the qualified research entity selected with access to previous reports on school funding in the State and access to database information necessary to carry out the evaluation.

The contract entered into pursuant to section 1 must require the qualified research entity selected to provide opportunities for input from education stakeholder groups in the State as part of its evaluation; and be it further

**Sec. 7. Disqualification. Resolved:** That the Education Research Institute established pursuant to the Maine Revised Statutes, Title 20-A, section 10, due to its prior involvement with the development, review and analysis of the essential programs and services funding model, is disqualified from being considered or selected to enter into the contract pursuant to section 1; and be it further

**Sec. 8. Preliminary and final reports. Resolved:** That the qualified research entity selected to conduct the independent review pursuant to this resolve shall present a preliminary report of the results of the review under section 6, subsection 1 to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs no later than April 1, 2013. The research entity shall present the final report, including the results of the review under section 6, subsection 2, to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs by December 1, 2013. The joint standing committee of the Legislature having jurisdiction over education and cultural affairs may submit a bill relating to the final report to the Second Regular Session of the 126th Legislature; and be it further

**Sec. 9. Suspension of contract to review essential programs and services components. Resolved:** That, notwithstanding the Maine Revised Statutes, Title 20-A, section 15689-A, subsection 3, for fiscal year 2011-12 and fiscal year 2012-13, the Commissioner of Education may not contract with a statewide education research institute to review certain cost components of the Essential Programs and Services Funding Act in accordance with the schedule

established in Title 20-A, section 15686-A; and be it further

**Sec. 10. Contract to compile and analyze education data. Resolved:** That, notwithstanding the Maine Revised Statutes, Title 20-A, section 15689-A, subsection 6, for fiscal year 2011-12 and fiscal year 2012-13, the Commissioner of Education and the Legislature may contract with a statewide education research institute for the compilation and analysis of education data in accordance with Title 20-A, section 10, except that the contract for these 2 fiscal years may not exceed the balance of funds remaining after funds allocated for this purpose are transferred pursuant to this resolve to the Legislature to fund the contract authorized under section 1; and be it further

**Sec. 11. Committee meetings authorized. Resolved:** That the joint standing committee may meet up to 4 times to carry out its responsibilities under this resolve; and be it further

**Sec. 12. Appropriations and allocations. Resolved:** That the following appropriations and allocations are made.

**EDUCATION, DEPARTMENT OF**

**General Purpose Aid for Local Schools 0308**

Initiative: Deappropriates funds no longer required for the contract to review the cost components of the Essential Programs and Services Funding Act pursuant to the Maine Revised Statutes, Title 20-A, section 15689-A, subsection 3 and for a portion of the contract with a statewide education policy research institute for the compilation and analysis of education data in accordance with the provisions established pursuant to Title 20-A, section 10.

GENERAL FUND	2011-12	2012-13
All Other	(\$150,000)	(\$300,000)
GENERAL FUND TOTAL	(\$150,000)	(\$300,000)

**EDUCATION, DEPARTMENT OF**

**DEPARTMENT TOTALS**

	2011-12	2012-13
GENERAL FUND	(\$150,000)	(\$300,000)
DEPARTMENT TOTAL - ALL FUNDS	(\$150,000)	(\$300,000)

**LEGISLATURE**

**Legislature 0081**

Initiative: Provides funds for a contract to conduct an independent review of the school funding formula and related state subsidy distribution method in the Essen-

tial Programs and Services Funding Act. Funds appropriated for this purpose may not lapse but must be carried forward to be used to complete the independent review authorized by this resolve.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$150,000	\$300,000
	<hr/>	<hr/>
GENERAL FUND TOTAL	\$150,000	\$300,000
<b>LEGISLATURE</b>		
<b>DEPARTMENT TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$150,000</b>	<b>\$300,000</b>
	<hr/>	<hr/>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$150,000</b>	<b>\$300,000</b>
<b>SECTION TOTALS</b>	<b>2011-12</b>	<b>2012-13</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$0</b>
	<hr/>	<hr/>
<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$0</b>

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

Effective May 29, 2012.

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**CHAPTER 167**  
**S.P. 574 - L.D. 1675**

**Resolve, To Establish a  
Response Team To Facilitate  
the Redevelopment of  
Unoccupied Mills and Other  
Unoccupied Buildings**

**Sec. 1. Coordinate and establish a response team to facilitate redevelopment of unoccupied mills. Resolved:** That, beginning August 1, 2012, the Department of Economic and Community Development shall establish and coordinate a response team to facilitate the redevelopment of unoccupied mills and other large unoccupied buildings. The Department of Environmental Protection, the Finance Authority of Maine and the Maine State Housing Authority shall participate in the response team, and the Department of Economic and Community Development shall invite the participation in the response team of a representative of a commercial real estate developer, a representative from an economic development

district, a local economic development representative and a private sector representative knowledgeable in the mill redevelopment process. The response team shall facilitate the Department of Economic and Community Development's efforts to redevelop unoccupied mills, other large unoccupied buildings and former schools that are now unoccupied. The response team shall provide assistance upon request to a municipality that is actively working to implement a redevelopment business plan for an unoccupied building and that has identified within the business plan possible financing resources and marketing plans for the redevelopment of the unoccupied site. The response team may assist by visiting the unoccupied site and engaging in discussions with local officials regarding the availability of federal, state and local financing resources for municipalities seeking to redevelop such sites as well as identifying and removing whenever possible any regulatory obstacles to the redevelopment of the site; and be it further

**Sec. 2. Report. Resolved:** That, no later than February 1, 2013, the Department of Economic and Community Development shall provide a report to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the Governor on the coordinated response efforts under section 1. The Department of Economic and Community Development shall submit with the report any recommendations for changes that may be required in statute or local ordinances to remove obstacles to the redevelopment of the sites under section 1. The joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters is authorized to report out a bill implementing the recommendations to the First Regular Session of the 126th Legislature.

See title page for effective date.

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**CONSTITUTIONAL RESOLUTIONS OF THE STATE OF MAINE  
AS PASSED AT  
THE SECOND REGULAR SESSION OF THE  
ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE  
2011**

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(There were none.)



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**JOINT STUDY ORDERS**

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(There were none.)



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**REVISOR'S REPORT  
2011**

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**CHAPTER 1**

**Sec. 1. 1 MRSA §150-F**, as enacted by PL 2011, c. 53, §1, is reallocated to 1 MRSA §150-H.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2011, chapters 17 and 53, which enacted 2 substantively different provisions with the same section number.

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**Sec. 2. 4 MRSA §17, sub-§7, ¶F**, as enacted by PL 1997, c. 24, Pt. II, §2, is corrected to read:

F. Periodically studies the feasibility of continuing any agreement with the State Tax Assessor by which the Department of Administrative and Financial Services, Bureau of ~~Taxation Revenue Services~~ Taxation Revenue Services performs revenue-collecting services for the Judicial Department and, if it is determined that this would be in the best interests of the State, continues such an agreement.

**EXPLANATION**

This section corrects a reference to a bureau.

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**Sec. 3. 5 MRSA §243-B**, as enacted by PL 2003, c. 450, §3, is corrected to read:

**§243-B. Report regarding discrepancies**

~~In addition to the report required pursuant to section 243-A, if~~ If in the course of any audit of a state department or agency the Department of Audit finds significant discrepancies in the financial records of that state department or agency, the State Auditor shall report, in person, to the joint standing committee of the Legislature that has jurisdiction over that state department or agency within 60 days of the audit findings and the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and state and local government matters. If the Legislature is not in session during that 60 days, the State Auditor may report in writing to those committees.

**EXPLANATION**

This section removes a reference to a repealed section of law.

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**Sec. 4. 5 MRSA §285, sub-§1, ¶A**, as amended by PL 1985, c. 507, §2 and PL 2007, c. 58, §3, is corrected to read:

A. Each appointed or elective officer or employee of the State who is eligible for membership in the Maine Public Employees Retirement System, ~~Maine Legislative Retirement System Program~~ Maine Legislative Retirement System Program or the State Police Retirement System;

**EXPLANATION**

This section corrects a reference to the Legislative Retirement Program.

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**Sec. 5. 5 MRSA §4594-F, sub-§3, ¶A**, as amended by PL 2011, c. 322, §7, is corrected to read:

A. Places of employment or public accommodation and additions to those places constructed on or after January 1, 1996 but before March 15, 2012 ~~the standards of~~ must meet the standards of construction, including, but not limited to, the 5 parts of the standards of construction in paragraph B, subparagraph (2).

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 6. 5 MRSA §12004-G, sub-§14-H**, as enacted by PL 2011, c. 90, Pt. B, §2, is corrected to read:

**14-H.**

Health	Board of	Expenses	24-A <u>MRSA</u>
Care	Directors of	Only	§3953
	the Maine		
	Guaranteed		
	Access		
	Reinsurance		
	Association		

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 7. 5 MRSA §13083-C, sub-§1, ¶F-4**, as enacted by PL 2011, c. 148, §1, is reallocated to 5 MRSA §13083-C, sub-§1, ¶F-6.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2011, chapters 136 and 148, which enacted 2 substantively different provisions with the same paragraph letter.

**Sec. 8. 5 MRSA §17851, sub-§2-E**, as enacted by PL 2011, c. 380, Pt. T, §15, is corrected to read:

**2-E. Member not in service at retirement; fewer than 5 years creditable service on July 1, 2011.** A member who on July 1, 2011 did not have 5 years of creditable service and who is not in service at retirement qualifies for a service retirement benefit if the member retires upon or after reaching 65 years of age.

The creditable service and age requirements of this subsection may not be increased for a member who:

- A. Has at least 5 years of creditable service, which, for the purpose of determining completion of the 5-year requirement, may include creditable service as a member of the Legislative Retirement Program under Title 3, section 701, subsection 8; or
- B. Meets the applicability requirements of subsection 3-A.

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 9. 10 MRSA §9721, sub-§§3 and 4**, as enacted by PL 2011, c. 408, §1, are corrected to read:

**3. Maine Uniform Building Code.** "Maine Uniform Building Code" means that portion of the Maine Uniform Building and Energy Code that does not contain energy code requirements as determined by the board pursuant to section 9722, subsection 6, paragraph ~~L~~ M.

**4. Maine Uniform Energy Code.** "Maine Uniform Energy Code" means that portion of the Maine Uniform Building and Energy Code that contains only energy code requirements as determined by the board pursuant to section 9722, subsection 6, paragraph ~~L~~ M.

**Sec. 10. 10 MRSA §9722, sub-§6, ¶K**, as amended by PL 2011, c. 365, §2 and c. 408, §2, is corrected to read:

K. In the adoption and amendment of the Maine Uniform Building and Energy Code, ensure that building materials from local sawmills, including but not limited to nongraded lumber, are permissible under the code; ~~and~~

**Sec. 11. 10 MRSA §9722, sub-§6, ¶L**, as enacted by PL 2011, c. 365, §3, is corrected to read:

L. In the adoption and amendment of the Maine Uniform Building and Energy Code, adopt the standards for residential basement wall insulation under the 2006 edition of the International Energy Conservation Code published by the International Code Council; ~~and~~

**Sec. 12. 10 MRSA §9722, sub-§6, ¶L**, as enacted by PL 2011, c. 408, §3, is reallocated to 10 MRSA §9722, sub-§6, ¶M.

**EXPLANATION**

These sections correct a lettering problem created by Public Law 2011, chapters 365 and 408, which enacted 2 substantively different provisions with the same paragraph letter.

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**Sec. 13. 11 MRSA §3-1401, sub-§(1), ¶(b)**, as enacted by PL 1993, c. 293, Pt. A, §2, is corrected to read:

(b). The person is represented by an agent or representative who signed the instrument and the signature is binding on the represented person under ~~Section section~~ section 3-1402.

**EXPLANATION**

This section makes a technical correction.

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**Sec. 14. 12 MRSA §10263**, as enacted by PL 2011, c. 381, §5, is reallocated to 12 MRSA §10264.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2011, chapters 370 and 381, which enacted 2 substantively different provisions with the same section number.

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**Sec. 15. 12 MRSA §11109, sub-§3, ¶¶I and L**, as amended by PL 2009, c. 213, Pt. OO, §2, are corrected to read:

I. A nonresident big game hunting license, which permits hunting of all legal species subject to the permit requirements in ~~chapter 915~~, subchapter 3, is \$114.

L. An alien big game hunting license, which permits hunting of all legal species subject to the permit requirements in ~~chapter 915~~, subchapter 3, is \$139.

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 16. 12 MRSA §11109-A, sub-§4, ¶A**, as enacted by PL 2007, c. 163, §1 and affected by §3, is corrected to read:

A. A license or permit under ~~chapter 915~~, subchapters 13 and 15;

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 17. 12 MRSA §11160, sub-§2**, as affected by PL 2003, c. 614, §9 and amended by c. 655, Pt. B, §135 and affected by §422, is corrected to read:

**2. Eligibility; hunting license required.** A person who possesses a valid hunting license is eligible to obtain a permit from the commissioner to hunt coyotes at night, except that a permit may not be issued to a person who has been convicted of a violation of section ~~11206-A~~ 11206 within 5 years of the date of application for the permit.

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 18. 12 MRSA §12255, sub-§3**, as amended by PL 2009, c. 340, §15, is corrected to read:

**3. Carrying a firearm while trapping.** Notwithstanding section 11205, subsection 1, paragraph A and section ~~11206-A~~ 11206, subsection 1, paragraph A, a person who holds a valid trapping license may carry a firearm at any time during the open trapping season for the sole purpose of dispatching trapped animals unless that person is prohibited from possessing a firearm under Title 15, section 393, subsection 1 and has not obtained a valid permit in accordance with Title 15, section 393, subsection 2.

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 19. 14 MRSA §4422, sub-§11**, as enacted by PL 1981, c. 431, §2, is corrected to read:

**11. Life insurance dividends, interest and loan value.** The debtor's aggregate interest, not to exceed in value \$4,000 less any amount of property of the estate ~~transferred~~ transferred in the manner specified in the United States Code, Title 11, Section 542(d), in any accrued dividend or interest under, or loan value of, any unmaturing life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is dependent.

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 20. 14 MRSA §6013, sub-§2, ¶A**, as enacted by PL 2011, c. 405, §5, is corrected to read:

A. If the tenant is still in possession of the rental unit, the landlord shall send written notice by first-class mail with proof of mailing to the tenant

at the address of the rental unit of the landlord's intent to dispose of, in accordance with subsection 5, any property remaining in the rental unit following the tenant's vacating the rental unit. Notwithstanding subsections 3 and 5, the notice provided pursuant to this paragraph may not limit the time in which the tenant may claim the property to less than 7 days following the mailing of the notice or 48 hours after service of the writ of possession, whichever period is longer.

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 21. 14 MRSA §6030-C, sub-§1**, as amended by PL 2011, c. 405, §11, is corrected to read:

**1. Energy efficiency disclosure.** A prospective tenant who will be paying utility costs has the right to obtain from an energy supplier for the unit offered for rental the amount of consumption and the cost of that consumption for the prior 12-month period. A landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential property that will be used by a tenant or lessee as a primary residence shall provide to potential tenants or lessees who pay for an energy supply for the unit, or upon request by a tenant or lessee a residential energy efficiency disclosure statement in accordance with Title 35-A, section 10117, subsection 1 that includes, but is not limited to, information about the energy efficiency of the property. Alternatively, the landlord may include in the application for the residential property the name of each supplier of energy that previously supplied the unit, if known, and the following statement: "You have the right to obtain a 12-month history of energy consumption and the cost of that consumption from the energy supplier."

**EXPLANATION**

This section makes a technical correction.

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**Sec. 22. 18-B MRSA §905**, as enacted by PL 2003, c. 618, Pt. A, §1 and affected by §2, is corrected to read:

**§905. Investment costs Reviewing compliance**

Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

**EXPLANATION**

This section corrects a headnote.

**Sec. 23. 20-A MRSA §254, sub-§13**, as enacted by PL 2011, c. 348, §2, is reallocated to 20-A MRSA §254, sub-§14.

**Sec. 24. 20-A MRSA §254, sub-§13**, as enacted by PL 2011, c. 354, §1, is reallocated to 20-A MRSA §254, sub-§15.

**EXPLANATION**

These sections correct a numbering problem created by Public Law 2011, chapters 154, 348 and 354, which enacted 3 substantively different provisions with the same subsection number.

**Sec. 25. 20-A MRSA §1001, sub-§14, ¶D**, as enacted by PL 2011, c. 395, §3, is reallocated to 20-A MRSA §1001, sub-§14, ¶E.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2011, chapters 249 and 395, which enacted 2 substantively different provisions with the same paragraph letter.

**Sec. 26. 20-A MRSA §4010**, as enacted by PL 2011, c. 397, §1, is reallocated to 20-A MRSA §4011.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2011, chapters 162 and 397, which enacted 2 substantively different provisions with the same section number.

**Sec. 27. 20-A MRSA §7202, sub-§10**, as amended by PL 2011, c. 348, §5 and c. 363, §2, is corrected to read:

**10. Department of Health and Human Services; authority to request convening of individualized education program team meeting.** Notify in writing the individual designated by the Department of Health and Human Services that the Department of Health and Human Services has the authority to request the school administrative unit to convene an individualized education program team meeting and to attend and participate in any individualized education program team meetings concerning a child with a disability who is a state ward. The written notice must indicate the time and place of the individualized education program team meeting and a copy of the notice must be placed in the child's permanent record; ~~and~~

**Sec. 28. 20-A MRSA §7202, sub-§11**, as enacted by PL 2011, c. 348, §6, is corrected to read:

**11. Transitional services for students with disabilities.** Plan, coordinate and implement services for

students with disabilities who are in transition from school to community in accordance with rules adopted by the department. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A; ~~and~~

**Sec. 29. 20-A MRSA §7202, sub-§11**, as enacted by PL 2011, c. 363, §3, is reallocated to 20-A MRSA §7202, sub-§12.

**EXPLANATION**

These sections correct a numbering problem created by Public Law 2011, chapters 348 and 363, which enacted 2 substantively different provisions with the same subsection number, and make technical corrections.

**Sec. 30. 20-A MRSA §19251, sub-§3**, as enacted by PL 2011, c. 354, §3, is corrected to read:

**3. Use of fund; technical assistance.** Balances in the fund may be used for the necessary expenses of the department in the administration of the fund. Balances in the fund may be used to pay for the development of a program of technical assistance pursuant to section 254, subsection ~~43~~ 15 that designs instructional materials that promote digital literacy, teacher professional development and training on the use of online learning resources, new administrative costs and other expenses not related to a learning through technology program funded under section 15689-A, subsection 12-A and for the implementation of a new clearinghouse for information on the use of online learning resources, including best practices in the use of open educational resources and open-source textbooks for elementary schools, middle schools and high schools.

**EXPLANATION**

This section corrects a cross-reference.

**Sec. 31. 22 MRSA §2423-A, sub-§7**, as enacted by PL 2011, c. 407, Pt. B, §16, is reallocated to 22 MRSA §2423-A, sub-§9.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2011, chapters 383 and 407, which enacted 2 substantively different provisions with the same subsection number.

**Sec. 32. 22 MRSA §3174-QQ**, as enacted by PL 2011, c. 457, §1, is reallocated to 22 MRSA §3174-RR.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2011, chapters 35 and 457, which

enacted 2 substantively different provisions with the same section number.

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**Sec. 33. 22 MRSA §3762, sub-§18**, as enacted by PL 2011, c. 380, Pt. LL, §1, is reallocated to 22 MRSA §3762, sub-§20.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2011, chapter 380, Part LL, section 1 and Part PP, section 2, which enacted 2 substantively different provisions with the same subsection number.

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**Sec. 34. 22 MRSA §4038-E, first ¶**, as enacted by PL 2011, c. 402, §15, is corrected to read:

The department may petition the District Court to have a permanency guardian adopt the child in the ~~permanency~~ permanency guardian's care and to change the child's name.

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 35. 22 MRSA §4099-H, sub-§1**, as enacted by PL 2011, c. 385, §1, is corrected to read:

**1. Definitions.** As used in this section, unless ~~this~~ the context otherwise indicates, the following terms have the following meanings.

A. "Emergency shelter family home" means a home that provides community-based emergency shelter with an individual or a family that is operated 24 hours a day under the auspices of an emergency shelter licensed by the department in accordance with rules adopted by the department under sections 7801 and 8102.

B. "Youth" means a child 12 to 20 years of age.

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 36. 23 MRSA §1914, sub-§5**, as repealed and replaced by PL 1981, c. 318, §4, is corrected to read:

**5. Interstate highways.** Not more than one on-premise sign, advertising the sale or lease of the property, may be permitted on land adjacent to any portion of the interstate system, including ramps and interchange areas, which is visible therefrom.

Not more than one on-premise sign visible from any portion of the interstate system, including ramps and interchange areas, may be permitted more than 50 feet

from the principal building or structure where the business, facility or point of interest is carried on.

No on-premise advertisement, located more than 50 feet from the principal building or structure where the business, facility or point of interest advertised is carried on, may exceed 20 feet in ~~length~~ length, width or height or 150 square feet in area, including border and trim, but excluding supports.

Any on-premise sign located more than 50 feet from the principal structure where the business, facility or point of interest is carried on that displays any trade name which refers to or identifies any service rendered or product sold shall display the name of the advertised business, facility or point of interest as conspicuously as such trade name.

**EXPLANATION**

This section corrects clerical errors.

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**Sec. 37. 24-A MRSA §601, sub-§29**, as enacted by PL 2011, c. 345, §3 and affected by §7, is reallocated to 24-A MRSA §601, sub-§30.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2011, chapters 297 and 345, which enacted 2 substantively different provisions with the same subsection number.

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**Sec. 38. 24-A MRSA §2509, sub-§1, ¶B**, as enacted by PL 1969, c. 132, §1, is corrected to read:

B. Applied to any one of such other dividend options as may be provided by the policy. If any such other dividend options are provided, the policy shall further state which option shall be automatically effective if such party shall not have elected some other option. If the policy specifies a period within which such other dividend option may be elected, such period shall be not less than 30 days following the date on which such dividend is due and payable. The annually apportioned dividend shall be deemed to be payable in cash within the meaning of paragraph A even though the policy provides that payment of such dividend is to be deferred for a specified period, provided such period does not exceed 6 years from the date of apportionment and that interest will be added to such dividend at a specified rate.

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 39. 24-A MRSA §2803-A, sub-§2**, as amended by PL 2011, c. 395, §4, is corrected to read:

**2. Disclosure of basic loss information.** Upon written request, every insurer shall provide loss information concerning a group policy or contract to its policyholder, to a former policyholder or to a school administrative unit pursuant to Title 20-A, section 1001, subsection 14, paragraph ~~D~~ **E** within 21 business days of the date of the request. This subsection does not apply to a former policyholder whose coverage terminated more than 18 months prior to the date of a request.

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 40. 24-A MRSA §2808-B, sub-§2, ¶E,** as amended by PL 2011, c. 364, §12, is corrected to read:

E. The superintendent may authorize a carrier to establish a separate community rate for an association group organized pursuant to section 2805-A or a trustee group organized pursuant to section 2806, as long as association group membership or eligibility for participation in the trustee group is not conditional on health status, claims experience or other risk selection criteria and all small group health plans offered by the carrier through that association or trustee group:

- (1) Are otherwise in compliance with the premium rate requirements of this subsection; and
- (2) Are offered on a guaranteed issue basis to all eligible employers that are members of the association or are eligible to participate in the trustee group except that a professional association may require that a minimum percentage of the eligible professionals employed by a subgroup be members of the association in order for the subgroup to be eligible for issuance or renewal of coverage through the association. The minimum percentage must not exceed 90%. For purposes of this subparagraph, "professional association" means an association that:
  - (a) Serves a single profession that requires a significant amount of education, training or experience or a license or certificate from a state authority to practice that profession;
  - (b) Has been actively in existence for 5 years;
  - (c) Has a constitution and bylaws or other analogous governing documents;
  - (d) Has been formed and maintained in good faith for purposes other than obtaining insurance;

- (e) Is not owned or controlled by a carrier or affiliated with a carrier;
- (g) Has ~~a~~ **at least** 1,000 members if it is a national association; 200 members if it is a state or local association;
- (h) All members and dependents of members are eligible for coverage regardless of health status or claims experience; and
- (i) Is governed by a board of directors and sponsors annual meetings of its members.

Producers may only market association memberships, accept applications for membership or sign up members in the professional association where the individuals are actively engaged in or directly related to the profession represented by the professional association.

Except for employers with plans that have grandfathered status under the federal Affordable Care Act, this paragraph does not apply to policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2014.

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 41. 24-A MRSA §4303, sub-§3-B,** as amended by PL 2011, c. 270, §1, is corrected to read:

**3-B. Prohibition on financial incentives.** A carrier offering or renewing a managed care plan may not offer or pay any type of material inducement, bonus or other financial incentive to a participating provider to deny, reduce, withhold, limit or delay specific medically necessary health care services covered under the plan to an enrollee. This subsection may not be construed to prohibit pilot projects authorized pursuant to section ~~4319~~ **4320-H** or to prohibit contracts that contain incentive plans that involve general payments such as capitation payments or risk-sharing agreements that are made with respect to providers or groups of providers or that are made with respect to groups of enrollees.

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 42. 24-A MRSA §4303, sub-§15,** as enacted by PL 2011, c. 451, §1 and affected by §2, is reallocated to 24-A MRSA §4303, sub-§17.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2011, chapters 364 and 451, which enacted 2 substantively different provisions with the same subsection number.

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**Sec. 43. 24-A MRSA §4320**, as enacted by PL 2011, c. 270, §2, is reallocated to 24-A MRSA §4320-H.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2011, chapters 270 and 364, which enacted 2 substantively different provisions with the same section number.

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**Sec. 44. 24-A MRSA §7103, sub-§4, ¶A**, as enacted by PL 2011, c. 345, §4 and affected by §7, is corrected to read:

A. The registrant shall pay to the superintendent a fee as set forth in section 601, subsection ~~29~~ 30 upon initial registration and every year thereafter.

**EXPLANATION**

This section corrects a cross-reference.

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**Sec. 45. 30 MRSA §6209-C, sub-§1-A**, as enacted by PL 2009, c. 384, Pt. E, §2 and affected by §3, is reallocated to 30 MRSA §6209-C, sub§1-B.

**EXPLANATION**

This section corrects a numbering problem created by Public Law 2009, chapter 384, Part D, section 1 and Part E, section 2, which enacted 2 substantively different provisions with the same subsection number.

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**Sec. 46. 30-A MRSA §406, sub-§1-A**, as enacted by PL 2011, c. 374, §2, is corrected to read:

**1-A. Accepting transferred inmates.** A correctional facility shall accept any inmate transferred to it by the Commissioner of Corrections pursuant to Title 34-A, ~~sections section~~ section 1404 or 1405 if:

A. Such transfer is consistent with policies established by the board pursuant to Title 34-A, section 1803; and

B. There are sufficient vacant and budgeted beds in that facility appropriate for the security classification and any special needs or circumstances of the transferred inmate.

**EXPLANATION**

This section corrects a clerical error.

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**Sec. 47. 33 MRSA §1603-116, sub-§(j)**, as enacted by PL 2011, c. 368, §7, is reallocated to 33 MRSA §1603-116, sub-§(i).

**EXPLANATION**

This section corrects a numbering error.

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**Sec. 48. 33 MRSA §1953, sub-§1, ¶G**, as amended by PL 2011, c. 433, §1, is corrected to read:

G. A gift obligation or stored-value card, 2 years after December 31st of the year in which the obligation or the most recent transaction involving the obligation or stored-value card occurred, whichever is later, including the initial issuance and any subsequent addition of value to the obligation or stored-value card.

(1) The amount unclaimed is 60% of the gift obligation's or stored-value card's face value.

(2) A gift obligation or stored-value card sold on or after December 31, 2011 is not presumed abandoned if the gift obligation or stored-value card was sold by a single issuer who in the past calendar year sold no more than \$250,000 in face value of gift obligations or stored-value cards. Sales of gift obligations and stored-value cards are considered sales by a single issuer if the sales were by businesses that operate either:

(a) Under common ownership or control with another business or businesses in the State; or

(b) As franchised outlets of a parent business.

(3) A period of limitation may not be imposed on the owner's right to redeem the gift obligation or stored-value card.

(4) Notwithstanding section 1956, fees or charges may not be imposed on gift obligations or stored-value cards, except that the issuer may charge a transaction fee for the initial issuance and for each occurrence of adding value to an existing gift obligation or stored-value card. These transaction fees must be disclosed in a separate writing prior to the initial issuance or referenced on the gift obligation or stored-value card.

(5) Beginning November 1, 2008, if the gift obligation or stored-value card is redeemed in

person and a balance of less than \$5 remains following redemption, at the consumer's request the merchant redeeming the gift obligation or stored-value card must refund the balance in cash to the consumer. This subparagraph does not apply to a prepaid telephone service card, a gift obligation or nonreloadable stored-value card with an initial value of \$5 or less or a stored-value card that is not purchased but provided as a promotion or as a refund for merchandise returned without a receipt.

(6) This paragraph does not apply to pre-funded bank cards;

**EXPLANATION**

This section corrects punctuation.

**Sec. 49. 36 MRSA §191, sub-§2, ¶QQ**, as amended by PL 2011, c. 331, §10 and affected by §§16 and 17, is corrected to read:

QQ. The disclosure of registration, reporting and payment information to the Department of Agriculture, Food and Rural Resources necessary for the administration of Title 32, chapter 28; ~~and~~

**Sec. 50. 36 MRSA §191, sub-§2, ¶RR**, as enacted by PL 2011, c. 331, §11 and affected by §§16 and 17, is reallocated to 36 MRSA §191, sub-§2, ¶TT.

**Sec. 51. 36 MRSA §191, sub-§2, ¶RR**, as amended by PL 2011, c. 380, Pt. Q, §3 and affected by §7, is corrected to read:

RR. The disclosure to the Finance Authority of Maine of the cumulative value of eligible premiums submitted for reimbursement pursuant to Title 10, section 1020-C; ~~and~~

**Sec. 52. 36 MRSA §191, sub-§2, ¶RR**, as enacted by PL 2011, c. 439, §7 and affected by §12, is reallocated to 36 MRSA §191, sub-§2, ¶UU.

**Sec. 53. 36 MRSA §191, sub-§2, ¶SS**, as enacted by PL 2011, c. 439, §8 and affected by §12, is reallocated to 36 MRSA §191, sub-§2, ¶VV.

**EXPLANATION**

These sections correct a lettering problem created by Public Law 2011, chapters 211, 331, 380 and 439, which enacted substantively different provisions with the same paragraph letters, and makes grammatical corrections.

**Sec. 54. 36 MRSA §5122, sub-§2, ¶HH**, as amended by PL 2011, c. 380, Pt. O, §7 and affected by §18, is corrected to read:

HH. To the extent included in federal adjusted gross income, annuity payments made to the survivor of a deceased member of the military as the result of service in active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard under a survivor benefit plan or reserve component survivor benefit plan pursuant to 10 United States Code, Chapter 73; ~~and~~

**Sec. 55. 36 MRSA §5122, sub-§2, ¶HH**, as enacted by PL 2011, c. 454, §9, is reallocated to 36 MRSA §5122, sub-§2, ¶JJ.

**Sec. 56. 36 MRSA §5122, sub-§2, ¶II**, as enacted by PL 2011, c. 380, Pt. O, §8 and affected by §18, is corrected to read:

II. For taxable years beginning on or after January 1, 2012, an amount equal to the net increase in the depreciation deduction allowable under the Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2011 or 2012 for which an addition was required under subsection 1, paragraph FF, subparagraph (2) for the taxable year beginning in 2011 or 2012.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph FF, subparagraph (2) related to property placed in service outside the State and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property placed in service outside the State under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph FF, subparagraph (2) for the same property; ~~and~~

**EXPLANATION**

These sections correct a lettering problem created by Public Law 2011, chapters 380 and 454, which enacted 2 substantively different provisions with the same paragraph letter, and make grammatical corrections.

**Sec. 57. 36 MRSA §5200-A, sub-§2, ¶V**, as enacted by PL 2011, c. 380, Pt. O, §16 and affected by §18, is corrected to read:

V. For taxable years beginning on or after January 1, 2012, an amount equal to the net increase in the depreciation deduction allowable under the

Code, Sections 167 and 168 that would have been applicable to that property had the depreciation deduction under the Code, Section 168(k) not been claimed with respect to such property placed in service during the taxable year beginning in 2011 or 2012 for which an addition was required under subsection 1, paragraph Y, subparagraph (2) for the taxable year beginning in 2011 or 2012.

Upon the taxable disposition of property to which this paragraph applies, the amount of any gain or loss includable in federal adjusted gross income must be adjusted for Maine income tax purposes by an amount equal to the difference between the addition modification for such property under subsection 1, paragraph Y, subparagraph (2) related to property placed in service outside the State and the subtraction modifications allowed pursuant to this paragraph.

The total amount of subtraction claimed for property placed in service outside the State under this paragraph for all tax years may not exceed the addition modification under subsection 1, paragraph Y, subparagraph (2) for the same property; ~~and~~

**Sec. 58. 36 MRSA §5200-A, sub-§2, ¶V**, as enacted by PL 2011, c. 454, §13, is reallocated to 36 MRSA §5200-A, sub-§2, ¶W.

#### EXPLANATION

These sections correct a numbering problem created by Public Law 2011, chapters 380 and 454, which enacted 2 substantively different provisions with the same paragraph letter, and make a grammatical correction.

**Sec. 59. 38 MRSA §480-Q, sub-§29**, as amended by PL 2011, c. 12, §2 and c. 64, §4, is corrected to read:

**29. Dam safety order.** Activity associated with the breach or removal of a dam pursuant to an order issued by the Commissioner of Defense, Veterans and Emergency Management under Title 37-B, chapter 24; ~~and~~

**Sec. 60. 38 MRSA §480-Q, sub-§30**, as enacted by PL 2011, c. 12, §3, is corrected to read:

**30. Lobster trap storage.** The storage of lobster traps and related trap lines, buoys and bait bags on docks in, on, over or adjacent to a coastal wetland. For purposes of this subsection, "dock" means a dock, wharf, pier, quay or similar structure built in part on the shore and projected into a harbor and used as a landing, docking, loading or unloading area for watercraft; ~~and~~

**Sec. 61. 38 MRSA §480-Q, sub-§30**, as enacted by PL 2011, c. 64, §5, is reallocated to 38 MRSA §480-Q, sub-§31.

#### EXPLANATION

These sections correct a numbering problem created by Public Law 2011, chapters 12 and 64, which enacted 2 substantively different provisions with the same subsection number, and make grammatical corrections.

**Sec. 62. PL 2011, c. 167, §5** is corrected to read:

**Sec. 5. Proof of inspection.** Before March 1, 2013, if a motorcycle meets the inspection standard under the Maine Revised Statutes, Title 29-A, section 1751, either a valid certificate of inspection or an official inspection sticker for the motorcycle is acceptable proof of inspection for purposes of Title 29-A, section 1758, ~~subsection~~ subsection 3.

#### EXPLANATION

This section corrects a clerical error.

**Sec. 63. PL 2011, c. 270, §4** is corrected to read:

**Sec. 4. Superintendent of Insurance to submit rules.** The Superintendent of Insurance shall submit copies of the rules adopted pursuant to the Maine Revised Statutes, Title 24-A, section ~~4320~~ 4320-H, subsection 2 to the Joint Standing Committee on Insurance and Financial Services no later than December 1, 2011.

#### EXPLANATION

This section corrects a cross-reference.

**Sec. 64. PL 2011, c. 345, §4, first 3 lines** are corrected to read:

**Sec. 4. 24-A MRSA c. ~~89~~ 91** is enacted to read:

#### CHAPTER 91

#### SERVICE CONTRACTS

#### EXPLANATION

This section corrects a numbering problem created by Public Law 2011, chapters 297 and 345, which enacted 2 substantively different chapters with the same chapter number.



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**SELECTED MEMORIALS AND JOINT RESOLUTIONS**

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**JOINT RESOLUTION  
MEMORIALIZING THE  
PRESIDENT OF THE  
UNITED STATES AND THE  
UNITED STATES  
CONGRESS TO ENACT THE  
SOCIAL SECURITY  
FAIRNESS ACT OF 2011**

**S.P. 631**

**WE**, your Memorialists, the Members of the One Hundred and Twenty-fifth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the President of the United States and the members of the United States Congress as follows:

**WHEREAS**, under current federal law, an individual who receives a Social Security benefit and a public retirement benefit derived from employment not covered under Social Security is subject to a reduction in the individual's Social Security benefit; and

**WHEREAS**, these laws, known as the Government Pension Offset and the Windfall Elimination Provision, greatly affect public employees and the Government Pension Offset requires a reduction in the spousal benefit received under Social Security equal to 2/3 of the surviving spouse's benefit under another government pension plan even though the spousal benefit was fully earned; and

**WHEREAS**, the Windfall Elimination Provision reduces the Social Security benefit of a person who is also receiving a pension from a public employer that does not participate in Social Security; and

**WHEREAS**, the Government Pension Offset and the Windfall Elimination Provision are particularly burdensome on the finances of low-income and moderate-income public service workers such as school teachers, clerical workers and school cafeteria employees; and

**WHEREAS**, the Government Pension Offset and the Windfall Elimination Provision both unfairly reduce benefits for those public employees and their spouses whose careers cross the line between the private and public sectors; and

**WHEREAS**, since many lower-paying public service jobs are held by women, both the Government Pension Offset and the Windfall Elimination Provision have a disproportionately adverse effect on women; and

**WHEREAS**, in some cases, additional support in the form of income, housing, heating and prescription drug assistance and other safety net assistance from state and local governments is needed to make up for the reductions imposed at the federal level; and

**WHEREAS**, other participants in Social Security do not have their benefits reduced in this manner; and

**WHEREAS**, to participate or not to participate in Social Security in public sector employment is a decision of employers, even though both the Government Pension Offset and the Windfall Elimination Provision directly punish employees and their spouses; and

**WHEREAS**, although the Government Pension Offset was enacted in 1977 and the Windfall Elimination Provision was enacted in 1983, many of the benefits in dispute had been paid into Social Security prior to the enactment of those laws; and

**WHEREAS**, H.R. 1332, the Social Security Fairness Act of 2011, a bipartisan bill introduced in the United States House of Representatives, would repeal these 2 unfair federal pension offsets, which penalize so many people in Maine and the rest of the Nation; now, therefore, be it

**RESOLVED:** That We, your Memorialists, respectfully urge and request that the President of the United States and the United States Congress work together to enact the Social Security Fairness Act of 2011, permitting retention of a combined public pension and Social Security benefit with no applied reductions; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable Barack H. Obama, President of the United States; the President of the United States Senate; the Speaker of the United States House of Representatives; and each Member of the Maine Congressional Delegation.

**Read and adopted by the Senate February 16, 2012  
and the House of Representatives February 22,  
2012.**

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**JOINT RESOLUTION  
MEMORIALIZING THE  
PRESIDENT OF THE  
UNITED STATES AND THE  
CONGRESS OF THE  
UNITED STATES TO  
ADEQUATELY FUND THE  
LOW-INCOME HOME  
ENERGY ASSISTANCE  
PROGRAM**

**S.P. 651**

**WE**, your Memorialists, the Members of the One Hundred and Twenty-fifth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the President and the Congress of the United States as follows:

**WHEREAS**, the Low-income Home Energy Assistance Program is a necessary federal program that was created in 1981 to replace a patchwork of federal energy assistance programs that arose from the energy crisis of the 1970s, and since that time this program has helped the people of Maine who need fuel assistance; and

**WHEREAS**, Maine, one of the most oil-dependent states in the nation, has received \$39,981,695 to fulfill its program obligations, down from \$56,600,000 last year; and

**WHEREAS**, approximately 64,000 families in Maine receive aid through the Low-income Home Energy Assistance Program, with an average benefit last year of \$804, and 53% of the households served include low-income senior citizens or persons with disabilities; and

**WHEREAS**, the decrease in funding will disproportionately affect the New England states, which are already facing a 25% increase in the cost of home heating oil this year, and these states have a dire need to have the funding restored; and

**WHEREAS**, the Low-income Home Energy Assistance Program is crucial to those Maine families who are relying on the federal program to help with weatherization costs for their homes and with winter fuel bills, and this reduction in funding is a devastating blow to people already hit hard by the recession; now, therefore, be it

**RESOLVED:** That We, your Memorialists, respectfully urge that legislation be enacted by the Congress of the United States to restore funding in the 2013 fiscal year budget to at least \$4,700,000,000, as provided in the 2011 fiscal year budget; and be it further

**RESOLVED:** That suitable copies of this resolution, duly authenticated by the Secretary of State, be

transmitted to the Honorable Barack H. Obama, President of the United States, the President of the United States Senate and the Speaker of the United States House of Representatives and to each Member of the Maine Congressional Delegation.

**Read and adopted by the Senate March 12, 2012  
and the House of Representatives March 13, 2012.**

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**JOINT RESOLUTION IN  
RECOGNITION OF THE  
CONTRIBUTIONS THAT  
WOMEN MAKE TO MAINE  
AND TO THE UNITED  
STATES**

**S.P. 675**

**WHEREAS**, American women of every race, class and ethnic background have made historic contributions to the growth and strength of our nation in countless recorded and unrecorded ways, especially in the areas of political and social change; and

**WHEREAS**, the United States boasts a rich history of women whose vast and courageous achievements speak to the sense of excellence and potential shared by all Americans; and

**WHEREAS**, our country would not have attained its greatness without the strength, bravery, insight and persistence of the women who have come before us; and

**WHEREAS**, American women have played, and continue to play, critical economic, cultural, political and social roles in every sphere of the life of the nation by constituting a significant portion of the labor force working inside and outside of the home and in professions from educator to astronaut; and

**WHEREAS**, women have played a major role in the defense of our nation, both on and off the battlefield; and

**WHEREAS**, American women have been leaders, not only in securing their own rights of suffrage and equal opportunity but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement and other movements that create a more fair and just society for all; and

**WHEREAS**, women not only have played critical economic, cultural and social roles in our society but also have permanently changed the face of American government and politics; and

**WHEREAS**, Maine has a rich and vibrant history of women in leadership, including former Senator Margaret Chase Smith, perhaps best known for her contribution to the well-being of the United States and its people with her consistent stand for the condemna-

SELECTED MEMORIALS AND JOINT RESOLUTIONS

tion of bigotry and injustice wherever she found them; and

**WHEREAS**, Senator Margaret Chase Smith was the first woman from Maine to serve in the United States Congress, the first woman in the nation elected to both houses of the United States Congress and the first woman to be placed in nomination for the presidency at a major party's convention; and

**WHEREAS**, the Maine Legislature has had several women elected to leadership positions, including the Honorable Elizabeth "Libby" Mitchell, the first woman in the United States to have been chosen as both House Speaker and Senate President, the 2nd-highest political position in the State, and the Honorable Betheda "Beth" Edmonds, the 2nd female Senate President in Maine history and the first to serve a 2nd term as Senate President, and the Honorable Hannah Pingree, the youngest woman to hold the position of House Speaker; and

**WHEREAS**, Maine currently has some of the strongest women leaders in the nation, including Senator Olympia J. Snowe, the first woman to serve in both houses of a state legislature and both houses of the United States Congress, Senator Susan Collins, the first woman to run for Maine Governor from a major party and Congresswoman Chellie Pingree, the first woman elected to Congress from Maine's First Congressional District; and

**WHEREAS**, within our state judicial system, Chief Justice Leigh I. Saufley is Maine's first woman Chief Justice of the Supreme Judicial Court; and

**WHEREAS**, the Honorable Janet T. Mills is the first woman to have served as Maine's Attorney General, as well as being a former District Attorney and Legislator; and

**WHEREAS**, we must take every action possible to promote women in leadership so that we can achieve fair representation in our State Government, including recognizing Maine women's contributions to our state history; and

**WHEREAS**, in recognition of the contributions of women, the United States Congress has passed a resolution each year since 1987 designating the month of March as "Women's History Month"; now, therefore, be it

**RESOLVED:** That We, the Members of the One Hundred and Twenty-fifth Legislature now assembled in the Second Regular Session, on behalf of the people we represent, take this opportunity to recognize March 2012 as Women's History Month in Maine; and be it further

**RESOLVED:** That we encourage the residents of this State to observe Women's History Month by participating in programs, ceremonies and activities to foster an awareness of and appreciation for the contri-

butions made by women that have benefited and improved society.

**Read and adopted by the Senate March 23, 2012  
and the House of Representatives March 26, 2012.**

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**STATE OF THE STATE ADDRESS  
OF  
GOVERNOR PAUL R. LEPAGE  
JANUARY 24, 2012**

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President Raye, Speaker Nutting, Chief Justice Saufley, members of the 125th Legislature, distinguished guests, and my fellow citizens.

I am here tonight to update the Legislature on the condition of our great state. However, before I begin, I want to recognize and thank a few people.

First and foremost, I want to thank my wife Ann, and family who have been so supportive, I appreciate all you have done and continue to do.

Master Sergeant Chad E. Smith, the Military Herald this evening, thank you for your courageous service to our great state and nation.

I would also like to recognize and thank Major Mark Stevens. Next month Major Stevens will be leading his soldiers to Kuwait in support of Operation Enduring Freedom, for their 3rd deployment in the Middle East in support of this great country.

Not only is Major Mark Stevens the commander of the unit, but he is also the marketing manager of a business in Southern Maine. Major Stevens is a true citizen soldier. Major, thank you for your service, we wish you and your unit Godspeed.

#### RECOGNIZING OUR ACCOMPLISHMENTS

I am pleased to report that in the last year, we have taken a right turn on the road to economic recovery.

In a bipartisan effort we passed the largest tax cut in state history for hardworking, Maine taxpayers. Not only did we cut the top rate for individuals; we are supporting working low income Maine people by ensuring seventy thousand Maine families will no longer pay state income tax, until they earn higher incomes. That is a real helping hand to put them on the road to self-sufficiency and prosperity.

Some claim our tax cuts are tax cuts for the rich. In Maine the top income tax rate kicks in at an income of under 20,000 dollars per person.

Let me tell you this, no matter what anybody says - 20,000 dollars is not rich.

Two thirds of Maine's hardworking taxpayers will receive tax relief next year. Maine families will have more money for heating oil, for groceries, and gas for their vehicle. This was not an easy task. I thank the Legislature for their efforts in focusing on making our state a more prosperous home for all Mainers, and for helping us put Maine people before politics.

Just one year ago my administration faced a 4.1 billion dollar shortfall in the pension system. Together, we eliminated over 1.7 billion dollars of pension debt on the books, 45% of the existing pension shortfall, while protecting retirees' future pensions through sensible reforms. You can't pay a pension with an I.O.U.

In other areas, Maine state government has a new attitude. With the leadership of Senator Garrett Mason, Maine became the 41st state in the union to adopt charter school legislation.

In addition to passing charter school legislation, my last budget increased general purpose aid to K-12 education by 63 million dollars.

As promised throughout my campaign, a 5-year cap was placed on welfare benefits.

Workers' compensation insurance premiums are down 7%. Unemployment is also down, and lower than the national average.

Maine's Department of Transportation under the superb leadership of Commissioner David Bernhardt saved more than 100 million dollars, without sacrificing our infrastructure improvements.

Red tape was reduced. We are not here to tell Maine job creators what they can't do; we are here to help them find out what they can do.

Providing superior customer service to all Mainers is the first job of state government. We are changing the culture of state agencies from "NO" to "CAN DO." Together, these things add up to one reality: Maine is Open for Business.

And the word is getting out.

During 2011, we heard from dozens of businesses who have pledged investments in Maine totaling 100 million dollars, with plans to create over 1,000 new, good paying jobs. In this last year, we have not only reopened businesses, but have brought back American jobs from overseas. The restarting of Great Northern Paper in Millinocket shows how persistence and working hard to reduce red tape and regulation can pay off. What was a recently shuttered business, is now a blossoming employer again.

Another example is Carbonite in Lewiston. Carbonite recently relocated its customer service operations from India to Lewiston. According to Carbonite CEO, David Friend, our efforts to accelerate the regulatory

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process in Maine were a primary reason they were able to bring 150 jobs to the Lewiston/Auburn area.

Even as we mark some success, we continue to face ongoing fiscal challenges.

### PUTTING OUR FISCAL HOUSE IN ORDER

When I took office on January 5, 2011, I found that two distinct fiscal issues clearly threatened our state's future financial stability – first was the pension fund liability, which we addressed, second was unsustainable welfare spending.

My administration did not create this problem and did not invent it. Many of you did not create this problem, nor did you invent it. This problem does exist! Regardless of who is responsible, we must fix it.

I want to thank Commissioner Mayhew for her leadership and grace dealing with this difficult challenge. Today, we must confront the 221 million dollar budget shortfall within the Department of Health and Human Services that is fueled by overly generous welfare programs that we cannot afford.

Over the last decade, Maine's welfare program has grown by over a billion dollars. We have encouraged people to rely on the taxpayers, rather than rely on themselves. Year after year, state government has used one-time federal funding, accounting gimmicks, misuse of funds and not paying hospitals to feed this beast.

We are now forced to make tough, but necessary decisions. Many of these tough choices were proposed last spring. Here we are again, and if we kick the can this time, I guarantee we'll be back next year because the problem keeps on growing.

This is not political rhetoric. We must stop promising people a free lunch when those working in Maine are earning below the national average. It is unfair to promise people they can get things for free when the resulting bills are not being paid.

Now, we, as elected officials, must decide how to protect the most vulnerable among us. My administration has made a commitment to save Maine's safety net.

But saving it means we must restructure our welfare programs and reduce total spending. We also must begin to reestablish core priorities for our welfare program. If we don't, the system will fail everyone.

My plan stabilizes the safety net for Maine's most vulnerable and preserves benefits for over 285,000 Mainers.

## SELECTED ADDRESSES TO THE LEGISLATURE

As a state, we must move closer to the national average in terms of our welfare programs. My plan protects benefits for over 285,000 Maine people – a number that would still have Maine 15% above, but closer to, the national average. As you all know, I have a unique understanding of what it means to need help.

We cannot be all things to all people. Maine's welfare program as it stands today will run out of money in early April, and all services will be lost. The clock is ticking and we must act quickly.

I encourage the Legislature to act now to move this supplemental budget forward to save our system.

### THE FUTURE

If you look to our neighbors in New Hampshire, you will find that the annual median household income is \$60,734. In Massachusetts, it is \$64,057. Here in Maine, our annual median household income is \$45,708 – 18% below the national average.

It is sad. Really sad. This is one of the single greatest issues that affects families in Maine, and we should be ashamed that our state is in this position. So I ask all of you, where is the outrage? Why should many Mainers live in poverty while our neighbors who live on the other side of lines drawn on a map earn a far better income and lead much more prosperous lives?

My friends in the Legislature, it's time to be outraged. It's time to create a climate for the private sector in Maine where our job creators can succeed – where Maine people can prosper.

The high cost of doing business in Maine is the common theme from Kittery to Fort Kent, from Fryeburg to Belfast. Therefore my legislative agenda will focus on the concerns I have heard from job creators. We need more than jobs. We need careers to pull our state out of poverty. We need good paying careers that will offer benefits, job security and job satisfaction.

We must focus on lowering the cost of energy, creating an educational system that can help us compete globally, and boost efforts to strengthen the local economy in each community in Maine.

I am convinced that reforms in these 3 areas will bring more jobs to Maine and provide the career paths that are missing today for so many Mainers.

### ENERGY

One of the largest inhibitors, if not the biggest obstacle to job creation is Maine's high energy costs. We must address the issue of the high price of electricity and

energy costs in total, if we want economic prosperity. For example, Tambrands in Lewiston/Auburn competes for capital against 3 other US plants to grow. Energy costs in the other 3 plants range from 4.2 to 5.6 cents per kWh while in Maine it is almost 8 cents per kWh.

Another example is the Advance Pierre/Barber Foods facility in Portland. They compete with plants in Oklahoma where energy costs are 7.5 cents per kWh, while in Maine they are 12.5 cents or 67% higher.

Electricity prices in Maine are the 12th highest in the country and 42% above the national average. As a result, Mainers pay approximately 400 million dollars more than the national average for electricity. Think about that – 400 million dollars that could be used elsewhere in our economy.

Maine no longer competes just in New England; it must compete nationally and globally.

However, there are some who think government should mandate what types of energy Mainers must buy – regardless of how expensive it is.

I DO NOT support Augusta being in the business of increasing costs on Maine ratepayers to pad the pockets of special interest groups.

I believe it is morally and ethically wrong to take more money from those who can least afford it to line the pockets of those that are politically connected here in Augusta.

I have met and spoken with companies ranging from natural gas providers, oil dealers, electric utilities, and biomass suppliers to gather input regarding how to lower Maine's overall energy prices.

My energy policy will focus on all forms of energy, and give Mainers the freedom to choose whether or not they buy from renewable sources.

For example, hydropower is a green energy. Let's remove the 100 MW restriction on renewable hydropower.

I support letting the free-market decide what energy sources are sustainable for Maine people.

Energy conservation is an important goal. However, we must make sure our government programs that use taxpayer dollars for energy efficiency, are responsible and cost-effective. Look back 15 years ago – did every household have a laptop, a cell phone, an iPad or an iPod? We have to recognize that with technology

comes the reality that we will consume more and more energy in the future.

We need to empower Maine people to take control of their energy fate.

#### EDUCATION

Businesses have repeatedly told us that they have jobs available, but lack a qualified workforce to fill them. I have met with students, teachers, principals and education experts. I learned too many of our students drop out of high school, and too many that complete high school are not ready for college or a career.

We must reform our educational system today or we'll fall even further behind.

This summer, Commissioner Steve Bowen and I studied educational systems from around the world.

For much of the 20th century, the United States led the world in quality of education, driving economic prosperity. Sadly, our country no longer leads, but struggles to follow.

Most international assessments of student performance, place the United States at best as average. Average is not leadership. Average will not get us prosperity.

Average means: we are as close to the bottom as we are to the top.

Maine can and must lead the nation.

Improving education in Maine starts with one simple step: putting our students first. That is not a slogan. It is not a cliché. We all must ask ourselves "What is best for the student?"

Not special interests, not unions, not superintendents, not school boards - students must come first.

Teacher effectiveness is critical to student learning.

We will soon introduce a series of reforms related to Maine's teacher effectiveness policies. Maine must have the best teachers educating our children.

Children's educational needs should be determined by their families – not by their street address.

Last year, this Legislature did a great thing by passing charter school legislation. That is a start!

As we put students first, we must recognize that some students learn best working with their hands.

My hobby is woodworking. Woodworking requires a strong working knowledge of geometry. Some kids

## STATE OF THE STATE ADDRESS

aren't going to pick up geometry in a textbook, but will in the context of trades such as woodworking, welding, or machining.

We must ensure that every student has access to a wider array of educational opportunities.

Therefore, I want to increase access to, and improve upon, Maine's Career and Technical Education System. Students should have the ability to choose to study trades, and develop skills before joining the workforce.

As we consider education reform, I ask you to keep one question in mind: what is best for the student?

### THE ECONOMY

I spent my career as a businessman, turning around private sector companies.

I have said it many times – as Governor, I cannot directly create private sector jobs. However, together we can develop policies that will encourage businesses to expand and create opportunities here in Maine.

If Maine is to be truly “open for business,” we must work to further reduce the high cost of doing business. Last week, the Wall Street Journal reported that in 2009, Maine had the 9th highest tax burden in the country. New Hampshire was the 6th lowest. Even TAXachusetts was lower than Maine.

Last year we passed the largest tax cut in state history. But that is not enough. I will return to the Legislature with further proposals to reduce Maine's tax burden. We will focus on keeping our retirees here at home, spending money with our small businesses, investing in our state, and mentoring our children and grandchildren.

We must break the cycle where retired Mainers live in Florida for 6 months and 1 day to avoid our high taxes. It's one thing to go south for some beach weather in January and February; it's entirely different when you have to escape the tax man.

As Governor, I am determined to make state government accountable. We need to work with our job creators – not against them. Red tape or procrastination, or just foot dragging is no longer acceptable.

However, encouraging businesses to expand takes a partnership with local communities and the state. Therefore, my administration is developing a Certified Business Friendly Community Program. This is a way for the state and communities to partner to reduce red tape and promote job creation.

## SELECTED ADDRESSES TO THE LEGISLATURE

The goal is simple: we want our local communities to partner with businesses. Let's identify those communities that exhibit a pro-job creator attitude and go the extra mile in creating jobs and wealth.

These communities will be recognized by the state as communities that are “Open for Business.” I believe, Maine is the most beautiful state in the nation. It is important that we do not lose sight of our roots as we work to improve our economy.

The choice between our environment and our business climate is not “either or.” It should always be “both.”

Through much of our history, fishing, farming, and forestry have been Maine's economic engine. Maine can be prosperous, and still be a great vacationland. We are committed to reviving these industries to get Maine working again.

I call on the Legislature to support our plan to create the Department of Agriculture, Conservation and Forestry. With renewed strength and collaboration, this Department will be a good steward of our natural resource based economy for future generations.

### DOMESTIC VIOLENCE

The last issue I want to address this evening is one that is very personal to me. I am sad to say that my childhood memories are ravaged with domestic violence. Those memories are not pleasant; but I share my past to help end domestic abuse today.

Every year, nearly half of Maine's homicides are related to domestic violence. In 2011, 23 people were murdered, 11 involving domestic violence.

These are real lives – mothers, fathers, sisters, brothers, uncles and aunts, and yes – even children. We all feel the horrific effects of domestic violence.

This tragic loss of life is unacceptable. I have ZERO tolerance for domestic abuse, of any kind.

More than 80% of domestic violence assaults are committed by men. It is time men stand up, speak up, and stamp out domestic violence. As men – we must stand together as one and say no to domestic violence.

Tonight, I am proud to acknowledge a domestic violence awareness advocate who has a personal connection to the effects of this brutal abuse.

After the murder of his 2 year old grandson, Arthur Jette became involved with the Maine Chapter of Parents of Murdered Children.

Art and I believe that it is time we shift domestic violence from being a women's issue, to a men's issue. It will take a much tougher justice system to stop this violence. I have teamed up with the Chief Justice, the Attorney General, and Commissioner Morris, district attorneys, victims and the Maine Coalition to End Domestic Violence in an effort to strengthen Maine's domestic violence related laws.

Our system must focus on protecting women and children. There is more to justice than winning and losing a court case.

We must close loopholes in our current bail system. It is important that the law ensures the most dangerous offenders are put in front of a judge before bail is set. Ending domestic violence is not a partisan issue. I'd like to thank House Minority Leader Emily Cain who has expressed an interest in sponsoring this bill.

#### THE CONCLUSION

Ladies and gentlemen ... make no mistake, Maine is at a crossroads, and the road to economic recovery is a challenging one.

In order to succeed, we must put politics and gridlock aside.

It is time to roll up our sleeves, get to work and fight for the Maine people.

Thank you for this opportunity to share my thoughts and vision with you tonight. God Bless Maine and God Bless America.

Now let's get to work.



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**STATE OF THE JUDICIARY ADDRESS  
OF  
CHIEF JUSTICE LEIGH INGALLS SAUFLEY  
FEBRUARY 9, 2012**

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*We should never despair, our Situation before has been unpromising and has changed for the better, so I trust, it will again. If new difficulties arise, we must only put forth new Exertions and proportion our Efforts to the exigency of the times.*

George Washington, letter to Philip Schuyler, July 15, 1777

**Centralization and Consolidation: A Road Map to Improving Public Service**

Good morning, and thank you, President Raye. Good morning, Governor LePage, Speaker Nutting, members of the 125th Maine Legislature, colleagues from the Maine bench, colleagues from the Tribal and Probate Courts, visitors in the gallery and, as always, my supportive family.

I am honored to have this opportunity to report to you on the State of Maine's Judiciary in 2012.

I begin with this: your individual commitment to improving justice in Maine has made a real difference in the lives of Maine people.

As difficult as the challenges have been for the 125th Maine Legislature and for a new Governor, you and the Governor have taken the time to understand the effects of these challenges on your constituents' needs for justice.

**Governor:** The Governor has supported a baseline Judicial Branch budget and is addressing the challenges of Domestic Violence in our courts.

**Legislature:** In the Legislature, many of you have worked very closely with us.

In Washington County, President Raye, and Representatives Maker, Tilton, and Burns visited the county courthouse. They will be working with us to improve that beautiful, but aging and dangerous facility.

In Aroostook County, Senator Sherman, Representative Martin, and Representative Fredette presented a session on the legislative process to lawyers in the region.

In Oxford County, Senator Hastings helped gather lawyers for a Legislative/Bench/Bar meeting.

In Hancock County, Senator Rosen, and Representatives Malaby, Flemings, and Luchini joined us to recognize Hancock County Judicial Branch employees followed by a Legislative/Bench/Bar lunch meeting.

In Newport, Representative Fredette assembled a large group of lawyers for a Legislative/Bench/Bar lunch meeting.

Representative Cushing met with the Law Court in Portland.

Senator Katz gathered stakeholders and is working passionately with the Courts, led by Justice Jabar, to build a consolidated, safe, energy-efficient courthouse in Augusta that will serve Kennebec County for centuries to come.

Representative Haskell has worked tirelessly to help improve the lives of juveniles, resulting in the State obtaining an Annie E. Casey Grant to help design detention alternatives for youth who might otherwise move from juvenile detention centers to the revolving doors of the county jails.

Representative Strang Burgess accepted our request to join the Children's Justice Task Force, bringing her knowledge from the Health and Human Services Committee to the table.

Many of you have taken time to visit the courts and talk with the judges, including: Senator Mason, and Representatives Stevens, Richardson, Monaghan-Derrig, Willette, Rochelo, Volk, and Pilon.

Speaker Nutting spent a day in the Augusta courts.

On the Judiciary Committee, Senators Hastings and Dill, Representatives Priest, Waterhouse, Sarty, and Maloney, assisted in reviewing the conflicting and unmanageable priorities of courts, and have made recommendations for change.

In the challenges of Domestic Violence, Representative Cain has worked closely with the courts to address an issue that I will talk about in greater detail in a minute.

And with your support, we brought real appellate court sessions to three Maine high schools: we sat at Lisbon High School at the invitation of Senator Mason, at Deering High at the invitation of Senator Alford, and at Richmond High at the invitation of Senator Goodall and Representative Berry.

These are just examples of the collaborative work you have all undertaken, and I recognize that it is always dangerous to identify specific people, for fear of leaving others out. I hope that those I may have missed will forgive me.

But I have taken the time to identify so many of you today to make a very important point. Maine benefits greatly from your cooperative and bipartisan support for access to justice. It doesn't happen in every State.

I am proud to tell the public that, despite the challenges of the economy, and the demands on all of you, in the Maine State House,

### **Justice is not forgotten. Thank you**

#### **1. Progress**

Here is one small way to reward your efforts. Last year, I began my report with a discussion of events from the year 1820, with the establishment of the Maine Constitution. This year, rather than reaching back and beginning with the Magna Carta, in the year 1215, I will focus my comments on the last six months.

July 2011 marked the first occasion in many years in which the Judicial Branch began the fiscal year with a baseline budget that had not been significantly cut. The long-held clerk and marshal vacancies, dark courtrooms, and resulting delays and frustration for the public, caused by several years of deep cuts, led you to support the court budget proposed by the Governor that allowed us to restore critical positions.

In a time of extraordinary fiscal challenges, we are grateful for your recognition of the public's need for basic access to justice. You know that the Judicial Branch baseline budget does not provide sufficient funding for the full caseload to be addressed in a safe, timely, and efficient manner.

However, rather than dwell on what we cannot do, today I will tell you what is being accomplished with the baseline budget.

I begin with a snapshot of the Judicial Branch on July 1, 2011, as we entered this fiscal year.

- Every day, almost 600 new nontraffic cases are filed. These cases represent real people, your constituents. They include victims of crimes, and people with serious disputes regarding their families, their housing, and their businesses;
- To address these cases, the baseline budget for this Fiscal Year totals \$55 million, representing 1.9% of the General Fund;
- That \$55 million includes just over \$6 million for debt service and \$48 million for operations;

- The total \$48 million operation budget includes \$33 million for all staff, including judges; and
- \$14 million for the operations of a statewide system of justice that serves all Maine people, rural and urban alike.

We started the fiscal year with 39 courthouses, and we will end the year with 38, having consolidated court facilities in Dover-Foxcroft, eliminating the need for duplicative entry screening staff, two separate technologies, and a clerk's office that had to move back and forth between two buildings. The renovated court facilities for Piscataquis County opened this Monday, on time and under budget.

And in this year, we will have completed our long-term goal of consolidating all Superior and District Court clerks' offices that were located in the same town or city. From 46 clerks' offices existing several years ago, we have eliminated 15 separate offices, creating a current total of 31 clerks' offices. Not only is this more efficient and cost-effective for the taxpayer, it is less confusing for the public.

In July of 2011, approximately 40 nonjudge vacancies existed. We viewed the opportunity to fill the vacancies that had so plagued the system as both a responsibility and a challenge to engage in innovations that could improve our public justice services, and make the very best use of every available dollar.

Before filling vacancies, we reviewed the potential for reorganization, and, rather than return to business as usual, we looked at the vacancies to determine whether the positions could be streamlined, centralized, and consolidated to improve public service.

Some of that reorganization and innovation is still in the works today. Much of it is in place. So let me tell you what a baseline budget allows within the Judicial Branch.

- **Security.** First and foremost, we were able, finally, to fill all of the ten additional security positions that the Legislature created five years ago but that had remained mostly unfilled since then as a result of budget cuts.

That change alone has allowed us to provide entry screening, similar to the screening now in place in the State House, on nearly 30% of our court days. In December 2011, for example, we were able to provide entry screening on 35% of the court days. This represents a substantial improvement. Much more frequently, people

coming to courthouses will see staffed metal detectors and x-ray machines.

The potential for stressed, angry, or out-of-control litigants to arrive in a courtroom with lethal weapons is slowly but surely diminishing.

For this, on behalf of all the people who find themselves in court, I thank you.

We will continue to provide you with updates on current entry screening, along with the amount that would be necessary for every courthouse to have entry screening 100% of the time. Today, that number is just over \$3 million dollars. Incrementally, every approximately \$120,000 dollars added to the Judicial Branch budget allows for the equivalent of annual screening for one additional courthouse.

- **Centralized Services.** Our second objective in filling vacancies has been to centralize and streamline the trial courts' administrative public services. With three formerly vacant clerk positions, we have initiated a pilot project, creating for the first time a Judicial Branch Service Center.

- **Central Phone Services.** Primarily, the pilot project will provide centralized telephone services. There will be a real human voice at the end of a phone line to answer questions that would have gone to busy courthouses.

We have borrowed this idea from our New Hampshire neighbors. Chief Justice Dalianis reports that the New Hampshire courts undertook a study of centralized telephone services and concluded that as many as 70% of the calls to the local clerks' offices could be answered centrally.

New Hampshire has significantly more staff than the Maine Judicial Branch, and they were able to commit 20 staff positions to a statewide telephone service. We will begin more modestly in Maine, but in our pilot project, if even half of the phone calls to the clerks' offices can be answered by the centralized staff, the public will receive more prompt and thorough service, and the clerks in the targeted courthouses will be freed up to work directly with the public and provide more efficient services.

- **Centralized Bail Services.** We also anticipate that the Service Center will provide centralized return-of-bail services, which will improve the Judicial Branch's capacity to assure that bail funds are not released to a person who has failed to pay court fines.

- **Record Requests.** Ultimately, we hope that the Service Center will take on the additional responsibility of responding to record requests. Those requests, in many instances, come from businesses that need information from the courts in order to hire employees and make other business decisions. The centralization of this effort has the potential to provide much swifter responses to businesses. Representative Rotundo—you have sought these services for your constituents for years, and I am pleased to say, the first steps to making it happen are finally in the works!

The Service Center balances our efforts to maintain rural courthouses, and at the same time streamline and improve administrative services to the public, thus reducing the costs of duplicated staffing.

The baseline budget has also allowed us to reenergize several different areas of public service.

- **BCD.** We have been able to reinvigorate the Business and Consumer Docket Clerk's Office. That office struggled with staff vacancies, causing our response to businesses to fall short of our initial expectations. In the last six months, the Business and Consumer Docket has been restored to health, and Chief Justice Humphrey, who leads that docket, reports a return to expeditious services for businesses and consumers alike.
- **Rolling Closings.** Also, in these last six months, with the return of staff to many of our beleaguered clerks' offices, we no longer have rolling closings in the smaller courts. When I spoke to you last year, courthouses in several rural areas were routinely experiencing reduced clerk hours. That has stopped.
- **Access to Justice Coordinator.** Finally, we have taken a vacant staff position that supported the Supreme Judicial Court and changed the position to establish, for the first time in Maine, an Access to Justice Coordinator. This position will be responsible for assuring that people with dis-

abilities do not find those disabilities to be a barrier in their efforts to obtain justice. Similarly, the coordinator will address language barriers, and compliance with state and federal law, and will help organize our assistance for the growing number of litigants who are unrepresented during some of the most important events in their lives. Some states have entire departments within their Judicial Branches focused on access to justice issues. Until now, Maine has not had a single staff person dedicated to addressing these critical issues.

All of these improvements occurred within current staffing levels, with no new dollars beyond baseline funding. In addition, we have continued with several other important innovations.

- **Unified Criminal Dockets.** Our efforts to streamline the antiquated and overlapping criminal dockets of the District and Superior Courts, which caused delays and duplication of staff, have been completed in the two largest consolidated courthouses: Portland and Bangor. Innovative trial judges, clerks, district attorneys, and defense attorneys worked creatively with Justices Gorman and Silver to accomplish these achievements.

With those Unified Criminal Dockets in place, we can confidently report that the improved process cuts the time for resolution of the serious criminal felony cases, *in half*. That change alone improves public safety. Particularly in matters of domestic violence prosecutions, swift responses and prompt trials are critically important.

- **Katahdin Counsel.** This year also saw the launch of a new effort, referred to as the Katahdin Counsel project, led by Justice Levy, to recognize the important work of Maine lawyers who provide free legal services to Maine people caught up in the legal system who cannot afford an attorney. As you know, Maine lawyers donate their time and their dollars in substantial amounts, putting them second in the entire country for generosity.

Recent research has revealed how critically important legal services are in one key area. The availability of legal assistance programs has been identified as one of the best predictors of decreased Domestic Violence.

In all of our work with Maine lawyers, we are fortunate to have Justice Alexander's commitment to supporting and training new and experienced lawyers. We must continue to support our lawyers in these crucial efforts.

- **Co-Occurring Disorders Court and Veterans Court**

And I am pleased to report that the successful Kennebec County Co-Occurring Disorders Court has now added a Veterans component. Once again, Justice Nancy Mills, working with community providers, has found a way to address a serious community need. I want to thank the Veterans Administration at Togus for working with us to find resources for struggling veterans. In addition, I want to thank T.J. Wheeler, who is a Case Manager in the Co-Occurring Disorders Court, a veteran himself, for his persistence and commitment in moving this new Veterans docket forward. This year, with the assistance of a grant, an extension of the Co-Occurring Disorders Court into Cumberland County is being considered.

As I have indicated, all of these improvements and innovations have been accomplished within the authorized budget.

Imagine what we could do to improve justice services with just a little more funding:

- **Security**—again, every additional \$120,000 allows us to provide the equivalent of full-time entry screening in one more courthouse.
- **Technology**—We must move the courts into the twenty-first century, not just for efficiency, but also for improved public service. With the assistance of Justice Mead's technological skills, we will be reporting to you in July on a plan for creating a fully electronic court system.

And I am pleased to report that this April, the Maine Supreme Judicial Court will pilot live-streaming oral arguments. With some serious creativity, we believe that we can accomplish this without new resources. So mark your calendars: on April 10, 2012, you will be able to sit at your computers and listen to every oral argument. Case summaries are available on our website, so if you can't dedicate your whole day, you can listen to the cases that interest you most.

## 2. Domestic Violence

My last topic will not surprise you. The Domestic Violence tragedies of this last year have made it clear that we must continue the search for solutions, and we must do so together. The statistics are chilling: the Attorney General reports that, in the past five years, 57 people were killed in Domestic Violence related assaults. Fifty-seven people—including children—died at the hands of people close to them. And that doesn't address the thousands who have been injured, isolated, or sexually assaulted, many of whom live in daily fear.

To be clear, in our efforts to eradicate domestic violence, we must not allow a rush to judgment to sweep in the innocent. We must preserve and enforce the rights guaranteed by the Maine and federal constitutions. And we must carefully balance the rights of the accused against public safety and protection for victims.

But, while the courts are neutral fact-finders, courts are not neutral on the fact of, or the solutions for, Domestic Violence. Chief Justices across the country are looking for ways to better identify the potentially lethal cases. Several years ago, the Conference of Chief Justices identified several principles that help guide us, and here are just a few of the most critical principles:

- Families in crisis must be able to easily access courts;
- Judges must have comprehensive information on prior court orders and any history of violence in the family;
- Convicted abusers must be held accountable; and
- Judges can be catalysts to enhance intergovernmental collaboration for improvement.

In Maine, all three branches of government are focused on taking concrete actions that will reduce and eliminate family and intimate partner violence and sexual assault.

Governor LePage has taken a critical step forward in emphasizing that the tragedy of Domestic Violence is not *only* a women's issue. It affects children, women, men, and increasingly, the elderly.

In the next months, you will have before you a number of bills aimed at improving governmental responses to this terrible problem.

Today, I suggest several actions you can take to improve Maine's response to Domestic Violence in all its forms.

- **Community Involvement.** Think long-term and globally. Violence in any form cannot be stopped through one single approach. We need to assure that children grow up in healthy and loving settings, that bullying and violence are swiftly addressed wherever they occur, and that everyone understands that violence is unacceptable.

Our response must involve community programs such as the Coordinated Community Response program working with local police; organizations that support healthy teen years—like Hardy Girls Healthy Women, and Boys to Men; and men speaking out against violence, as the Governor has done so candidly.

- **Improved information.** Next, in the context of judicial proceedings, we must improve the quality of information available to bail commissioners, judges, and legal advocates when Domestic Violence charges are filed. Criminal history information, prior Protection Orders, and Risk Assessment information should be available for bail decisions and sentencing decisions. Some of these efforts will require new legislation and fiscal resources. Thoughtful responses and improved attention to risks of continued violence may ultimately require more resources for the courts, prosecutors, indigent legal services, and pretrial services.
- **UCDs.** Next, you can support the development of Unified Criminal Dockets when we are able to bring them to your districts. As I noted earlier, just this change alone can cut felony resolution time in half.

Justice delayed is not only justice denied, in some cases it is a recipe for tragedy.

- However, it is not a simple task to streamline criminal procedures. The unification of a region's criminal dockets is a complex process, involving counties, law enforcement, prosecutors, and defenders. Each new Unified Criminal Docket requires its own design, an initial infusion of scarce judicial resources, and the input of all stakeholders to do it right.

- We are beginning the design of a Unified Criminal Docket in York County, and we will be working with the various stakeholders to assure success in the second largest criminal docket in the entire State.

### 3. Lack of Criminal History Record Information

Finally, we know that one of the most important tools in averting repeated violence is for judicial officers to have the criminal history records of the person charged with Domestic Violence. Without that history, informed decisions cannot be made.

We have recently learned that there are substantial impediments to Bail Commissioners receiving that important information. The problem stems from a variety of issues, including varying legal interpretations, technological limitations, law enforcement staffing limitations, and miscommunication.

But frankly, it doesn't matter why Bail Commissioners don't have the records.

By law, you have mandated policies by which criminal history records will be relayed to the Bail Commissioners.

To make well-informed decisions, they must have the information.

Too often, they are not receiving the reports.

That is simply not acceptable.

Today, on behalf of the Chief Judge of the District Court, I am announcing that, effective immediately, Bail Commissioners will be instructed not to set bail in Domestic Violence related charges unless they have received access, at a minimum, to the Maine Criminal History Record Information of the defendant.

We recognize that this step may strain resources, and that there are potential constitutional considerations that must be addressed. But we cannot ignore the problem any longer.

To address these problems quickly, I have charged the Trial Court Chiefs with bringing together a collaborative task force to solve the problem of obtaining criminal history records in Domestic Violence cases.

Attorney General Schneider and Commissioner Morris of the Department of Public Safety are already at work on the problems and, with us, are committed to finding a solution.

In the end, we must all work together to find a way for critical information to reach judges or bail commissioners quickly, and to ensure that domestic violence cases are resolved promptly.

### 4. Conclusion

To conclude this morning, I want to thank all of you again for your efforts to support the courts to improve access to justice for Maine people. We continue to invite you to visit courts and to invite the Law Court to your local schools.

We must remember as we grapple with some of the most difficult social and economic issues we have faced, that Maine is a wonderful place to live and work. We can and we will work together to make it an even better place for our children and the people of this great State.

I leave you with this:

Mahatma Gandhi reminded us that

"The future depends on what we do in the present."

We cannot wait for a better time, for a better economy, for an easier path.

We must follow Teddy Roosevelt's advice—

"Do what you can, with what you have, where you are."

Thank you very much for your support for justice for Maine people.

**CROSS REFERENCE TABLES**

TABLE I

Sections of the Maine Revised Statutes affected by the laws of the First Special Session and the Second Regular Session of the 125th Legislature and the Revisor's Report 2011, Chapter 1.

TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC	
1	25			AFF	PL 655	KK	34	2	6	3			AMD	PL 655	I	2
1	25			AMD	PL 655	KK	1	2	6	3			AFF	PL 655	CC	4
1	72	17-A		AMD	PL 491		1	2	6	3			AMD	PL 655	CC	1
1	136			AMD	PL 490		1	2	6	5			AMD	PL 657	Y	3
1	150-F			RAL	RR 1		1	2	6	5			AFF	PL 655	KK	34
1	150-H			RAL	RR 1		1	2	6	5			AMD	PL 655	KK	2
1	210-A			NEW	PL 536		1	2	9	1			AFF	PL 655	MM	26
1	400			NEW	PL 662		1	2	9	1			AMD	PL 655	MM	1
1	402	3	M	AMD	PL 662		2	2	9	2			AFF	PL 655	MM	26
1	402	5		NEW	PL 662		3	2	9	2			AMD	PL 655	MM	1
1	402	6		NEW	PL 662		3	2	9	2-A			AFF	PL 655	MM	26
1	408			RP	PL 662		4	2	9	2-A			RPR	PL 655	MM	2
1	408-A			NEW	PL 662		5	2	9	3	G		AFF	PL 655	MM	26
1	409	1		AMD	PL 662		6	2	9	3	G		AMD	PL 655	MM	3
1	409	1		AMD	PL 559	A	1	2	9	6			AFF	PL 655	MM	26
1	409	2		AMD	PL 559	A	2	2	9	6			NEW	PL 655	MM	4
1	412			AMD	PL 662		7	2	9	7			AFF	PL 655	MM	26
1	413			NEW	PL 662		8	2	9	7			NEW	PL 655	MM	4
1	414			NEW	PL 662		8	2	105				RP	PL 691	D	1
1	551			AMD	PL 691	A	1									
1	1012	1-A		AMD	PL 634		1	3	342			last	AMD	PL 691	B	1
1	1012	7		AMD	PL 634		2	3	703	2			AMD	PL 606		2
1	1012	7-A		NEW	PL 634		3	3	703	3			AMD	PL 606		3
1	1012	8		AMD	PL 634		4	3	703	4			NEW	PL 606		4
1	1012	8-A		NEW	PL 634		5	3	901-A	2	C		AMD	PL 691	B	2
1	1012	9		AFF	PL 643		14	3	902-A	2			AMD	PL 691	B	3
1	1012	9		AMD	PL 643		1	3	959	1	A		AMD	PL 579		1
1	1013	1	B	AMD	PL 471		1	3	959	1	F		AMD	PL 657	AA	1
1	1013	2	B-1	AMD	PL 471		2	3	959	1	M		AFF	PL 655	CC	4
1	1013	2	B-2	NEW	PL 471		3	3	959	1	M		AMD	PL 655	CC	2
1	1016-A			RP	PL 634		6									
1	1016-B			RP	PL 634		7	4	1		4th		AMD	PL 655	W	1
1	1016-C			AMD	PL 471		4	4	17	7	F		COR	RR 1		2
1	1016-C			AMD	PL 634		8	4	152	4			AMD	PL 614		1
1	1016-E			RP	PL 634		9	4	152	4			AMD	PL 542	A	1
1	1016-F			RP	PL 634		10	4	162				AMD	PL 691	B	4
1	1016-G			NEW	PL 634		11	4	184	6			AMD	PL 559	A	3
1	1017-A			RP	PL 634		12	4	422	2	A		AMD	PL 657	AA	2
1	1018			RP	PL 634		13	4	433				NEW	PL 500		1
1	1019			RP	PL 634		14	4	1203	2			AMD	PL 606		5
1	1019		2nd	AMD	PL 471		5	4	1203	3			AMD	PL 606		6
								4	1203	4			NEW	PL 606		7
2	1-A	3		NEW	PL 606		1	4	1806	1	D		NEW	PL 547		1
2	6	1		AMD	PL 657	Y	1	4	1806	3			NEW	PL 547		2
2	6	2		AFF	PL 655	I	11									
2	6	2		AMD	PL 655	I	1	5	7-A	1	D		AMD	PL 691	B	5
2	6	3		AMD	PL 657	Y	2	5	7-B				AMD	PL 657	X	1
2	6	3		AFF	PL 655	I	11	5	19	1	A-1		NEW	PL 634		15

**CROSS REFERENCE TABLE I**

TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC
5	19	1	B-1	NEW	PL 634		15	5	1591	2		AMD	PL 655	V	1
5	19	1	G	AMD	PL 634		16	5	1591	2	A	AMD	PL 657	BB	1
5	19	1	H	AMD	PL 634		17	5	1591	2	D	AMD	PL 657	II	1
5	19	1	H-1	NEW	PL 634		18	5	1591	5		NEW	PL 655	Q	1
5	19	1	J	AFF	PL 643		14	5	1642	6		AMD	PL 542	A	2
5	19	1	J	AMD	PL 643		2	5	1665	5		AMD	PL 691	B	8
5	19	2		RPR	PL 634		19	5	1667-B	3		AMD	PL 655	K	1
5	19	3	B	AMD	PL 634		20	5	1667-B	4		AMD	PL 655	K	1
5	19	3	C	RPR	PL 634		21	5	1710-D			AFF	PL 655	DD	24
5	19	3-A		NEW	PL 634		22	5	1710-D			AMD	PL 655	DD	3
5	19	4		RPR	PL 634		23	5	1710-E			AFF	PL 655	I	11
5	19	7		RP	PL 634		24	5	1710-E			AMD	PL 655	I	6
5	243-B			COR	RR 1		3	5	1710-F	2		AMD	PL 655	L	1
5	282		2nd	AFF	PL 655	I	11	5	1710-I			AFF	PL 655	DD	24
5	282		2nd	AMD	PL 655	I	3	5	1710-I			AMD	PL 655	DD	4
5	282	9		AFF	PL 652		14	5	1742	28		AFF	PL 655	GG	70
5	282	9		AMD	PL 652		1	5	1742	28		NEW	PL 655	GG	1
5	285	1	A	COR	RR 1		4	5	1742-C	1		AMD	PL 691	B	9
5	285	1	F-10	NEW	PL 514		1	5	1742-C	3		AMD	PL 691	B	10
5	285	7	L	AFF	PL 540		3	5	1743-A		1st	AMD	PL 691	B	11
5	285	7	L	AMD	PL 540		1	5	1745			AMD	PL 691	B	12
5	298	1		AFF	PL 655	JJ	41	5	1746		last	AMD	PL 691	B	13
5	298	1		RPR	PL 655	JJ	1	5	1752			AMD	PL 691	B	14
5	304			AMD	PL 691	B	6	5	1762-A		1st	AMD	PL 691	B	15
5	931	1	G	AMD	PL 655	D	1	5	1762-A		last	AMD	PL 691	B	15
5	931	1	L-2	AFF	PL 655	I	11	5	1766		1st	AMD	PL 691	B	16
5	931	1	L-2	RP	PL 655	I	4	5	1766		4th	AMD	PL 691	B	16
5	935	1	D	AFF	PL 655	KK	34	5	1768			AMD	PL 691	B	17
5	935	1	D	AMD	PL 655	KK	3	5	1769	2	C	AMD	PL 691	B	18
5	937	1	A	AMD	PL 655	D	2	5	1769	3	B	AMD	PL 691	B	19
5	937	1	F	AMD	PL 655	D	3	5	1825-B	2	E	AMD	PL 555		1
5	937	1	K	NEW	PL 655	D	4	5	2003	2	D	AFF	PL 655	EE	30
5	937	1	L	NEW	PL 655	D	4	5	2003	2	D	AMD	PL 655	EE	1
5	937	1	M	NEW	PL 655	D	4	5	3101			AFF	PL 655	DD	24
5	939-A			RP	PL 657	AA	3	5	3101			NEW	PL 655	DD	5
5	943	1	E	AMD	PL 655	SS	1	5	3102			AFF	PL 655	DD	24
5	943	1	J	AMD	PL 655	D	5	5	3102			NEW	PL 655	DD	5
5	943	1	K	AMD	PL 655	D	5	5	3103			AFF	PL 655	DD	24
5	943	1	L	AFF	PL 655	D	11	5	3103			NEW	PL 655	DD	5
5	943	1	L	NEW	PL 655	D	6	5	3104			AFF	PL 655	DD	24
5	943	1	M	NEW	PL 655	D	6	5	3104			NEW	PL 655	DD	5
5	947-B	1		AFF	PL 655	I	11	5	3105			AFF	PL 655	DD	24
5	947-B	1		AMD	PL 655	I	5	5	3105			NEW	PL 655	DD	5
5	948	1	L	AMD	PL 633		1	5	3106			AFF	PL 655	DD	24
5	948	1	M	AMD	PL 633		2	5	3106			NEW	PL 655	DD	5
5	948	1	N	RP	PL 633		3	5	3107			AFF	PL 655	DD	24
5	1507	3		AMD	PL 691	B	7	5	3107			NEW	PL 655	DD	5
5	1511			AMD	PL 657	F	1	5	3108			AFF	PL 655	DD	24
5	1516-B			NEW	PL 689		1	5	3108			NEW	PL 655	DD	5
5	1518-A			AMD	PL 692		1	5	3301			AFF	PL 655	CC	4
5	1531	1		AFF	PL 655	DD	24	5	3301			RP	PL 655	CC	3
5	1531	1		AMD	PL 655	DD	1	5	3302			AFF	PL 655	CC	4
5	1531	2		AFF	PL 655	DD	24	5	3302			RP	PL 655	CC	3
5	1531	2		AMD	PL 655	DD	2	5	3303			AFF	PL 655	CC	4
5	1532	8		NEW	PL 655	O	1	5	3303			RP	PL 655	CC	3
5	1536	1		AFF	PL 692		3	5	3304			AFF	PL 655	CC	4
5	1536	1		AMD	PL 692		2	5	3304			RP	PL 655	CC	3
5	1543-A	5		NEW	PL 477	G	1	5	3305			AFF	PL 655	CC	4
5	1582	4		AMD	PL 657	X	2	5	3305			RP	PL 655	CC	3

CROSS REFERENCE TABLE I

TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC
5	3305-A			AFF	PL 655	CC	4	5	4612	5		AMD	PL 613		20
5	3305-A			RP	PL 655	CC	3	5	4613	2	B	AFF	PL 613		29
5	3305-B			AFF	PL 655	CC	4	5	4613	2	B	AMD	PL 613		21
5	3305-B			RP	PL 655	CC	3	5	4621			AFF	PL 613		29
5	3307-B			AFF	PL 655	CC	4	5	4621			AMD	PL 613		22
5	3307-B			RP	PL 655	CC	3	5	4622	1		AFF	PL 613		29
5	3307-C			AFF	PL 655	CC	4	5	4622	1		AMD	PL 613		23
5	3307-C			RP	PL 655	CC	3	5	4651	2	A	AMD	PL 559	C	1
5	3307-F			AFF	PL 655	CC	4	5	4651	2	B	RP	PL 559	C	2
5	3307-F			RP	PL 655	CC	3	5	4653	1		AMD	PL 559	C	3
5	3307-G			AFF	PL 655	CC	4	5	4654	2	A	AMD	PL 559	C	4
5	3307-G			RP	PL 655	CC	3	5	4654	2	B	RP	PL 559	C	5
5	3331			AFF	PL 655	EE	30	5	4654	6		AMD	PL 559	C	6
5	3331			RP	PL 655	EE	2	5	6204	1		AMD	PL 657	X	3
5	3360-I		1st	AMD	PL 628		1	5	6204	1		AFF	PL 655	II	11
5	3371	2	J	AMD	PL 691	C	1	5	6204	1		AMD	PL 655	II	1
5	4553	1-D		AFF	PL 613		29	5	6204	6		AMD	PL 657	X	4
5	4553	1-D		NEW	PL 613		1	5	6204	6		AFF	PL 655	II	11
5	4553	1-E		AFF	PL 613		29	5	6204	6		AMD	PL 655	II	2
5	4553	1-E		NEW	PL 613		2	5	7019			AFF	PL 655	EE	30
5	4553	1-F		AFF	PL 613		29	5	7019			RP	PL 655	EE	3
5	4553	1-F		NEW	PL 613		3	5	7020			AFF	PL 655	EE	30
5	4553	1-G		AFF	PL 613		29	5	7020			RP	PL 655	EE	3
5	4553	1-G		NEW	PL 613		4	5	7020-A			AFF	PL 655	EE	30
5	4553	5-B		AFF	PL 613		29	5	7020-A			RP	PL 655	EE	3
5	4553	5-B		NEW	PL 613		5	5	7072		2nd	AMD	PL 491		2
5	4553	6		AFF	PL 613		29	5	7072		3rd	RP	PL 491		3
5	4553	6		AMD	PL 613		6	5	7072	1		RP	PL 491		4
5	4553	7		AFF	PL 613		29	5	7072	2		RP	PL 491		5
5	4553	7		AMD	PL 613		7	5	7072	3	B	RP	PL 491		6
5	4553	9-F		AFF	PL 613		29	5	7504			AFF	PL 655	LL	3
5	4553	9-F		NEW	PL 613		8	5	7504			AMD	PL 655	LL	1
5	4553	9-G		AFF	PL 613		29	5	8053	1	B	AMD	PL 479		1
5	4553	9-G		NEW	PL 613		8	5	8053	1	C	AMD	PL 479		2
5	4553	10	G	AFF	PL 613		29	5	8053	1	E	NEW	PL 479		3
5	4553	10	G	AMD	PL 613		9	5	8053-A	5		NEW	PL 479		4
5	4553-A	1	B	AMD	PL 542	A	3	5	8053-A	6		NEW	PL 479		4
5	4581			AFF	PL 613		29	5	12004-B	10		NEW	PL 694		1
5	4581			AMD	PL 613		10	5	12004-D	1		RP	PL 682		1
5	4581-A			AFF	PL 613		29	5	12004-D	1-A		NEW	PL 682		2
5	4581-A			NEW	PL 613		11	5	12004-D	4		AFF	PL 655	GG	70
5	4582			AFF	PL 613		29	5	12004-D	4		RP	PL 655	GG	2
5	4582			RP	PL 613		12	5	12004-G	10-D		AMD	PL 570		1
5	4582-A			AFF	PL 613		29	5	12004-G	14-H		COR	RR 1		6
5	4582-A			AMD	PL 613		13	5	12004-G	25		RP	PL 491		7
5	4582-C			AFF	PL 613		29	5	12004-G	29-C		AFF	PL 655	EE	30
5	4582-C			NEW	PL 613		14	5	12004-G	29-C		RP	PL 655	EE	4
5	4594	2		AFF	PL 613		29	5	12004-I	24-F		AFF	PL 655	EE	30
5	4594	2		AMD	PL 613		15	5	12004-I	24-F		RP	PL 655	EE	5
5	4594-A	2	A	AFF	PL 613		29	5	12004-I	54-D		NEW	PL 491		8
5	4594-A	2	A	AMD	PL 613		16	5	12004-I	57-C		REEN	PL 598		1
5	4594-A	2	B	AFF	PL 613		29	5	12004-I	66		AMD	PL 542	A	4
5	4594-A	2	B	AMD	PL 613		17	5	12004-I	68-B		AFF	PL 655	EE	30
5	4594-F	3	A	COR	RR 1		5	5	12004-I	68-B		RP	PL 655	EE	6
5	4611			AFF	PL 613		29	5	12004-I	74-G		NEW	PL 663		1
5	4611			AMD	PL 613		18	5	12004-I	87		RP	PL 563		1
5	4612	4	A	AFF	PL 613		29	5	12004-J	15		AMD	PL 542	A	5
5	4612	4	A	AMD	PL 613		19	5	12006	3	B	AFF	PL 655	GG	70
5	4612	5		AFF	PL 613		29	5	12006	3	B	RP	PL 655	GG	3

**CROSS REFERENCE TABLE I**

TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC
5	12021			NEW	PL 616	A	1	5	20003	3		AMD	PL 657	AA	8
5	12022			NEW	PL 616	A	1	5	20003	3-B		AMD	PL 657	AA	9
5	12023			NEW	PL 616	A	1	5	20003	6		AMD	PL 657	AA	10
5	12024			NEW	PL 616	A	1	5	20003	8		RP	PL 657	AA	11
5	13056	3		AFF	PL 655	DD	24	5	20003	17		RP	PL 657	AA	12
5	13056	3		AMD	PL 655	DD	6	5	20003	20		AMD	PL 657	AA	13
5	13056-A			AMD	PL 563		2	5	20004			RP	PL 657	AA	14
5	13056-C	3		AMD	PL 563		3	5	20004-A			AMD	PL 657	AA	15
5	13056-D	2	C	AFF	PL 655	EE	30	5	20005		1st	AMD	PL 657	AA	16
5	13056-D	2	C	AMD	PL 655	EE	7	5	20005	2		AMD	PL 657	AA	17
5	13056-E	4		AFF	PL 655	JJ	41	5	20005	5		AMD	PL 657	AA	18
5	13056-E	4		AMD	PL 655	JJ	2	5	20005	6		AMD	PL 657	AA	19
5	13058	19		AFF	PL 655	JJ	41	5	20005	6		AMD	PL 542	A	6
5	13058	19		AMD	PL 655	JJ	3	5	20005	12		AMD	PL 657	AA	20
5	13070-J	1	D	AMD	PL 573		1	5	20005	14		AMD	PL 657	AA	21
5	13072	7		AFF	PL 655	FF	16	5	20005	16		AMD	PL 657	AA	22
5	13072	7		AMD	PL 655	FF	1	5	20006-A			AMD	PL 657	AA	23
5	13073-B			AFF	PL 655	JJ	41	5	20006-B			AMD	PL 657	AA	24
5	13073-B			NEW	PL 655	JJ	4	5	20007			AMD	PL 657	AA	25
5	13083-C	1	F-4	RAL	RR 1		7	5	20008		1st	AMD	PL 657	AA	26
5	13083-C	1	F-6	RAL	RR 1		7	5	20008	3		AMD	PL 657	AA	27
5	13083-T	2	B	AFF	PL 655	EE	30	5	20008	4		AMD	PL 657	AA	28
5	13083-T	2	B	AMD	PL 655	EE	8	5	20009		1st	AMD	PL 657	AA	29
5	13083-T	2	C	AFF	PL 655	EE	30	5	20021			AMD	PL 657	AA	30
5	13083-T	2	C	RP	PL 655	EE	9	5	20022		1st	AMD	PL 657	AA	31
5	13090-C	1		AMD	PL 563		4	5	20023			AMD	PL 657	AA	32
5	13090-E	1		AMD	PL 563		5	5	20024			AMD	PL 657	AA	33
5	13090-E	2		AMD	PL 563		5	5	20041	1		AMD	PL 657	AA	34
5	13090-F			RP	PL 563		6	5	20042			AMD	PL 657	AA	35
5	13090-G	4		AMD	PL 563		7	5	20043		1st	AMD	PL 657	AA	36
5	13105	2	C	AMD	PL 691	C	2	5	20043		2nd	AMD	PL 657	AA	37
5	13107		1st	AMD	PL 563		8	5	20043	6		AMD	PL 657	AA	38
5	13107		last	AMD	PL 563		9	5	20044	2		AMD	PL 657	AA	39
5	13107	1		AFF	PL 655	EE	30	5	20047	2		AMD	PL 657	AA	40
5	13107	1		AMD	PL 655	EE	10	5	20048			AMD	PL 657	AA	41
5	13120-A		1st	AMD	PL 563		10	5	20050	3		AMD	PL 657	AA	42
5	13120-P	2		AMD	PL 563		11	5	20065	8		AMD	PL 657	AA	43
5	13120-P	3		AMD	PL 563		12	5	20067		1st	AMD	PL 657	AA	44
5	13120-Q		1st	AFF	PL 655	DD	24	5	20067	1-A		AMD	PL 657	AA	45
5	13120-Q		1st	AMD	PL 655	DD	7	5	20067	3		AMD	PL 657	AA	46
5	15302	3	C	AFF	PL 655	EE	30	5	20072		1st	AMD	PL 657	AA	47
5	15302	3	C	AMD	PL 655	EE	11	5	20073-B			AMD	PL 657	AA	48
5	15321			RP	PL 691	C	3	5	20074			AMD	PL 657	AA	49
5	15322			NEW	PL 691	C	4	5	20075			AMD	PL 657	AA	50
5	17001	19	E	AMD	PL 657	I	1	5	20076-B			AMD	PL 657	AA	51
5	17001	19	F	AMD	PL 657	I	1	5	20077			AMD	PL 657	AA	52
5	17001	19	G	NEW	PL 657	I	2	5	20078-A	3		AMD	PL 657	AA	53
5	17001	30	B	AMD	PL 657	I	3	5	20078-A	4		AMD	PL 657	AA	54
5	17054	2		AMD	PL 606		8								
5	17054	3		AMD	PL 606		9	6	51			RP	PL 610	A	1
5	17054	4		AMD	PL 606		10	6	52			RP	PL 610	A	1
5	17054	5		NEW	PL 606		11	6	53			RP	PL 610	A	1
5	17062			NEW	PL 606		12	6	54			RP	PL 610	A	1
5	17851	2-E		COR	RR 1		8	6	54			AMD	PL 649	E	1
5	19202	2-B	A	AMD	PL 657	AA	4	6	55			RP	PL 610	A	1
5	20002	2		AMD	PL 657	AA	5	6	56			RP	PL 610	A	1
5	20002	3		AMD	PL 657	AA	5	6	102	2	A	AMD	PL 610	A	2
5	20002	4		AMD	PL 657	AA	6	6	102	2	C	RP	PL 610	A	3
5	20003	2		AMD	PL 657	AA	7	6	174	5		AMD	PL 662		9

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6	202	5		RP	PL 610	A	4	8	230			AMD	PL 559	A	5
6	202	7		RP	PL 610	A	5	8	371	6		NEW	PL 630		1
6	271			RP	PL 610	A	6	8	1003	1	J	AMD	PL 469		1
6	273			RP	PL 610	A	6	8	1003	1	K	NEW	PL 469		2
6	274			RP	PL 610	A	6	8	1003	3	G-1	NEW	PL 469		3
6	275			RP	PL 610	A	6	8	1003	4		NEW	PL 469		4
6	276			RP	PL 610	A	6	8	1011	1-B		NEW	PL 585		1
6	277			RP	PL 610	A	6	8	1011	2-B		NEW	PL 699		1
6	278			RP	PL 610	A	6	8	1013	3		NEW	PL 585		2
6	279			RP	PL 610	A	6	8	1013-A	3		NEW	PL 585		3
								8	1016	1		AMD	PL 585		4
7	2		4th	AFF	PL 655	MM	26	8	1018	1		AMD	PL 469		5
7	2		4th	AMD	PL 655	MM	5	8	1018	1	A	AMD	PL 585		5
7	52	1		AMD	PL 608		1	8	1018	1	A-1	AMD	PL 585		6
7	52	3-A		AMD	PL 608		2	8	1018	1-A		NEW	PL 699		2
7	52	4		AMD	PL 608		3	8	1020	1		AMD	PL 585		7
7	52	6		NEW	PL 608		4	8	1020	3	A	AMD	PL 585		8
7	53-A			AMD	PL 608		5	8	1021	1		AMD	PL 585		9
7	53-B			AMD	PL 608		6	8	1035			AMD	PL 585		10
7	53-C			AMD	PL 608		7	8	1035-A			AMD	PL 585		11
7	53-E			AMD	PL 608		8	8	1036	2	E	AMD	PL 657	E	1
7	53-F			RP	PL 608		9	8	1036	2	E	AMD	PL 477	DD	1
7	53-G			RP	PL 608		10	8	1036	2-A	J	AMD	PL 625		3
7	53-H	6		NEW	PL 608		11	8	1036	2-A	K	AMD	PL 625		3
7	53-I			NEW	PL 608		12	8	1036	2-A	L	NEW	PL 625		4
7	54	5		NEW	PL 608		13	8	1036	2-A	M	NEW	PL 625		4
7	55			RP	PL 608		14	8	1054	3		AMD	PL 585		12
7	56			AMD	PL 608		15	8	1054	4		AMD	PL 585		12
7	57			AMD	PL 608		16	8	1055			NEW	PL 585		13
7	58	2	A	RP	PL 608		17								
7	98	1		AMD	PL 487		1	9-B	161	2	M	AMD	PL 518		1
7	98	2		AMD	PL 487		2	9-B	161	2	N	AMD	PL 518		2
7	98	3		AMD	PL 487		3	9-B	161	2	O	NEW	PL 518		3
7	214	3		AFF	PL 655	EE	30	9-B	363-A	10	A	AMD	PL 559	A	6
7	214	3		AMD	PL 655	EE	12	9-B	367-A	4		AMD	PL 559	A	7
7	251			NEW	PL 609		1	9-B	369	2	A	AMD	PL 559	A	8
7	252			NEW	PL 609		1								
7	616-A	2	B	AMD	PL 510		1	10	363	2-A		AFF	PL 655	DD	24
7	743-A	1		AMD	PL 607		1	10	363	2-A		AMD	PL 655	DD	8
7	766	1		AMD	PL 607		2	10	918	3		AFF	PL 655	EE	30
7	1017	4	A	AMD	PL 691	D	2	10	918	3		AMD	PL 655	EE	13
7	1342-C			NEW	PL 557		1	10	945-B	1		AFF	PL 655	EE	30
7	2910-B			NEW	PL 625		1	10	945-B	1		AMD	PL 655	EE	14
7	3153-D			AMD	PL 625		2	10	948	1	F	AMD	PL 698		1
7	3153-D			AMD	PL 690		1	10	948	1	G	AMD	PL 698		2
7	3952	4-B	B	AMD	PL 559	A	4	10	948	1	H	NEW	PL 698		3
								10	962	2		AMD	PL 586		1
7-A	101			AFF	PL 657	V	2	10	963-A	12		AMD	PL 586		2
7-A	101			NEW	PL 657	V	1	10	1020-A	7	D	AMD	PL 559	A	9
7-A	201			AFF	PL 657	V	2	10	1020-C	1	A	AFF	PL 548		36
7-A	201			NEW	PL 657	V	1	10	1020-C	1	A	AMD	PL 548		1
7-A	202			AFF	PL 657	V	2	10	1020-C	1	B	AFF	PL 548		36
7-A	202			NEW	PL 657	V	1	10	1020-C	1	B	AMD	PL 548		1
7-A	203			AFF	PL 657	V	2	10	1020-C	2		AFF	PL 548		36
7-A	203			NEW	PL 657	V	1	10	1020-C	2		AMD	PL 548		2
7-A	204			AFF	PL 657	V	2	10	1023-G	3	D	AFF	PL 655	GG	70
7-A	204			NEW	PL 657	V	1	10	1023-G	3	D	AMD	PL 655	GG	4
7-A	205			AFF	PL 657	V	2	10	1023-K	1		AFF	PL 655	MM	26
7-A	205			NEW	PL 657	V	1	10	1023-K	1		AMD	PL 655	MM	6

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10	1023-K	3-B		AFF	PL 655	MM	26	11	2-316		5		AMD	PL 523	1
10	1023-K	3-B		AMD	PL 655	MM	7	11	2-1303		2		AMD	PL 691	A 5
10	1023-P			NEW	PL 625		5	11	2-1303		5		AMD	PL 691	A 6
10	1041	18		AFF	PL 655	GG	70	11	3-1301				AMD	PL 691	D 3
10	1041	18		AMD	PL 655	GG	5	11	3-1401	1	b		COR	RR 1	13
10	1043	2	O	AMD	PL 586		3								
10	1043	2	O	AFF	PL 655	MM	26	12	6-A				AMD	PL 608	18
10	1043	2	O	AMD	PL 655	MM	8	12	212	3			AFF	PL 655	JJ 41
10	1044	13		NEW	PL 586		4	12	212	3			AMD	PL 655	JJ 5
10	1053	6	A	AMD	PL 586		5	12	405-A	4			AFF	PL 655	MM 26
10	1063	2	I-1	AFF	PL 655	GG	70	12	405-A	4			AMD	PL 655	MM 11
10	1063	2	I-1	AMD	PL 655	GG	6	12	406				AFF	PL 655	EE 30
10	1063	2	J	AFF	PL 655	EE	30	12	406				RP	PL 655	EE 16
10	1063	2	J	AMD	PL 655	EE	15	12	407				AFF	PL 655	EE 30
10	1100-Z	2		AMD	PL 548		3	12	407				AMD	PL 655	EE 17
10	1100-Z	3	G	AMD	PL 548		4	12	408				AFF	PL 655	HH 7
10	1100-Z	4		AMD	PL 548		5	12	408				NEW	PL 655	HH 1
10	1100-Z	5		AMD	PL 548		6	12	409				AFF	PL 655	HH 7
10	1104	2	B	RPR	PL 559	A	10	12	409				NEW	PL 655	HH 2
10	1110	1-A		NEW	PL 574		1	12	541-A				AFF	PL 655	KK 34
10	1110	1-B		NEW	PL 574		1	12	541-A				AMD	PL 655	KK 4
10	1110	6		NEW	PL 574		2	12	544	3	G		AFF	PL 655	II 11
10	1110	7		NEW	PL 574		2	12	544	3	G		NEW	PL 655	II 3
10	1110	8		NEW	PL 574		2	12	544-D				AFF	PL 655	KK 34
10	1110	9		NEW	PL 574		2	12	544-D				NEW	PL 655	KK 5
10	1383	2		AMD	PL 691	A	2	12	549				AFF	PL 655	KK 34
10	1453	1-A		NEW	PL 632		1	12	549				AMD	PL 655	KK 6
10	1453	1-B		NEW	PL 632		1	12	549-A	2			AFF	PL 655	KK 34
10	1457-A			NEW	PL 632		2	12	549-A	2			AMD	PL 655	KK 7
10	1492	1		AFF	PL 655	MM	26	12	550-A				AFF	PL 653	33
10	1492	1		AMD	PL 655	MM	9	12	550-A				RP	PL 653	1
10	2630	7		RP	PL 691	A	3	12	550-B	3	A		AFF	PL 655	KK 34
10	8002	10		AMD	PL 603		1	12	550-B	3	A		AMD	PL 655	KK 8
10	8002	11		AMD	PL 603		2	12	550-B	6			AFF	PL 655	KK 34
10	8002	12		NEW	PL 603		3	12	550-B	6			AMD	PL 655	KK 9
10	8004-A			AMD	PL 691	A	4	12	681				AMD	PL 682	3
10	9042	3		AMD	PL 633		4	12	682	1			RPR	PL 682	4
10	9721	3		COR	RR 1		9	12	682	20			NEW	PL 682	5
10	9721	4		COR	RR 1		9	12	683				RP	PL 682	6
10	9722	1		AMD	PL 633		5	12	683-A				NEW	PL 682	7
10	9722	2	I	AFF	PL 655	MM	26	12	684		1st		AMD	PL 682	8
10	9722	2	I	AMD	PL 655	MM	10	12	685				AMD	PL 682	9
10	9722	6	K	COR	RR 1		10	12	685-A	1			AMD	PL 682	10
10	9722	6	L	COR	RR 1		11	12	685-A	4			RPR	PL 682	11
10	9722	6	L	RAL	RR 1		12	12	685-A	4-A			NEW	PL 682	12
10	9722	6	M	RAL	RR 1		12	12	685-A	8-A	B		AMD	PL 682	13
10	9723	2		AMD	PL 633		6	12	685-A	12			AMD	PL 599	1
10	9723	2		AFF	PL 655	FF	16	12	685-A	14			NEW	PL 599	2
10	9723	2		AMD	PL 655	FF	2	12	685-B	1-A	B		AMD	PL 682	14
10	9724	1-B		NEW	PL 505		1	12	685-B	1-A	B-1		NEW	PL 682	15
10	9724	5		AMD	PL 582		1	12	685-B	1-A	B-1		AFF	PL 653	33
10	9724	6		NEW	PL 582		2	12	685-B	1-A	B-1		NEW	PL 653	2
10	9901			NEW	PL 622		1	12	685-B	1-C			NEW	PL 682	16
10	9902			NEW	PL 622		1	12	685-B	2-C			RPR	PL 682	17
10	9903			NEW	PL 622		1	12	685-B	3-A			AMD	PL 682	18
10	9903	1	B	AFF	PL 691	E	2	12	685-B	4			AMD	PL 682	19
10	9903	1	B	AMD	PL 691	E	1	12	685-B	4	A		AFF	PL 653	33
10	9904			NEW	PL 622		1	12	685-B	4	A		AMD	PL 653	3
10	9905			NEW	PL 622		1	12	685-B	4-B			AMD	PL 682	20

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12	685-C	1		AMD	PL	682	21	12	6421	5	C	AMD	PL	486	1
12	685-C	1	B	AFF	PL	655	41	12	6422	4		RP	PL	486	2
12	685-C	1	B	RP	PL	655	6	12	6432-A	2		AMD	PL	475	1
12	685-C	1	C	AFF	PL	655	41	12	6432-A	3		NEW	PL	475	2
12	685-C	1	C	AMD	PL	655	7	12	6432-A	4		NEW	PL	475	2
12	685-C	1-A		NEW	PL	682	22	12	6432-A	5		NEW	PL	475	2
12	685-F	1		AMD	PL	682	23	12	6448	8	A	AMD	PL	486	3
12	685-H			NEW	PL	682	24	12	6448	8	E	AMD	PL	486	4
12	689			AMD	PL	682	25	12	6472	3		AMD	PL	486	5
12	1835	1	A	AFF	PL	655	34	12	6473	2		RPR	PL	486	6
12	1835	1	A	AMD	PL	655	10	12	6474	3		RP	PL	486	7
12	1847	2		AFF	PL	655	41	12	6474	4		AMD	PL	486	8
12	1847	2		AMD	PL	655	8	12	6474	6		AMD	PL	486	9
12	1849	1	A	AFF	PL	655	34	12	6474	7	A	RP	PL	486	10
12	1849	1	A	AMD	PL	655	11	12	6474	9		NEW	PL	486	11
12	1863-A	4	A	AFF	PL	655	34	12	6475			AMD	PL	486	12
12	1863-A	4	A	AMD	PL	655	12	12	6476			AMD	PL	486	13
12	1868	1		AFF	PL	655	34	12	6501	6		AMD	PL	598	21
12	1868	1		AMD	PL	655	13	12	6502-A	1		AMD	PL	598	22
12	5013	5		AFF	PL	655	34	12	6502-A	4		AMD	PL	598	23
12	5013	5		AMD	PL	655	14	12	6505-A	2		AMD	PL	549	3
12	6001	1-A		RP	PL	598	2	12	6505-A	2-B		NEW	PL	549	4
12	6001	37-B		NEW	PL	598	3	12	6505-A	8		RPR	PL	549	5
12	6022	11		AFF	PL	655	34	12	6505-B	6		AMD	PL	549	6
12	6022	11		AMD	PL	655	15	12	6553-A			AMD	PL	598	24
12	6022	17		AMD	PL	598	4	12	6575-A			AMD	PL	549	7
12	6030	2		RP	PL	598	5	12	6575-C	2		AMD	PL	598	25
12	6032-A			NEW	PL	598	6	12	6575-D	2		AMD	PL	549	8
12	6072	7-A	F	AFF	PL	655	11	12	6601	2		AMD	PL	598	26
12	6072	7-A	F	AMD	PL	655	4	12	6602	2		AMD	PL	598	27
12	6072-D	5		AMD	PL	598	7	12	6621	1		AMD	PL	527	10
12	6076	2		AMD	PL	527	1	12	6621	2		AMD	PL	527	10
12	6078-A	5		RP	PL	598	8	12	6651	1	F	AMD	PL	598	28
12	6080			REEN	PL	598	9	12	6651	1	G	AMD	PL	598	28
12	6101	2		AMD	PL	567	1	12	6651	1	H	NEW	PL	598	29
12	6121	1		AMD	PL	598	10	12	6672			RP	PL	598	30
12	6131			AMD	PL	598	11	12	6673	2-A		AFF	PL	655	11
12	6134			AMD	PL	598	12	12	6673	2-A		AMD	PL	655	11
12	6136	5		AMD	PL	598	13	12	6702	1		AMD	PL	598	31
12	6141	5		RP	PL	598	14	12	6702	2		AMD	PL	598	31
12	6171	5	B	AMD	PL	598	15	12	6731	2	C	AMD	PL	598	32
12	6172			AMD	PL	527	2	12	6731-A	6		AMD	PL	598	33
12	6191	1		AMD	PL	527	3	12	6743			AMD	PL	691	F
12	6191	2	C	AMD	PL	527	4	12	6745	2		AMD	PL	598	34
12	6192	1	A	AMD	PL	527	5	12	6746	2		AMD	PL	598	35
12	6192	3		AMD	PL	527	6	12	6747	1		AMD	PL	691	F
12	6192	4		AMD	PL	527	7	12	6747	2		AMD	PL	691	F
12	6193			RP	PL	527	8	12	6748	4		AMD	PL	598	36
12	6194			RP	PL	527	9	12	6748	4-B		NEW	PL	598	37
12	6301	2	S	AMD	PL	598	16	12	6748-A	4		AMD	PL	598	38
12	6302-A			AMD	PL	598	17	12	6748-A	4-B		NEW	PL	598	39
12	6371	2		AMD	PL	598	18	12	6749-N		last	RP	PL	598	40
12	6372		1st	AMD	PL	598	19	12	6851	2	A	AMD	PL	598	41
12	6374	2		AMD	PL	598	20	12	6851	2-D		AMD	PL	598	42
12	6404-A			AMD	PL	549	1	12	6851	3		AMD	PL	598	43
12	6404-H			NEW	PL	549	2	12	6852			AMD	PL	598	44
12	6404-I			NEW	PL	549	2	12	6852-A			RP	PL	598	45
12	6404-J			NEW	PL	549	2	12	6852-B			NEW	PL	598	46
12	6404-K			NEW	PL	549	2	12	6864			AMD	PL	549	9

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TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC
12	6955				AMD	PL 598	47	12	12503	4			AMD	PL 533	5
12	6977				RP	PL 598	48	12	12760				AMD	PL 612	1
12	8003	3	M		AMD	PL 657	X 5	12	12761				AMD	PL 612	2
12	8003	3	M-1		AMD	PL 657	X 6	12	12763	3			AMD	PL 533	6
12	8003	3	Q		AMD	PL 488	1	12	13001	12			AFF	PL 655	KK 34
12	8424	2			AMD	PL 662	10	12	13001	12			AMD	PL 655	KK 16
12	8867-C				NEW	PL 599	3	12	13051	2	C		AMD	PL 533	7
12	8867-D				NEW	PL 599	4	12	13060				RP	PL 533	8
12	8867-E				NEW	PL 599	5	12	13060-A				NEW	PL 533	9
12	8867-F				NEW	PL 599	6	12	13105	1	C		AMD	PL 533	10
12	8868	1-A			NEW	PL 599	7	12	13106-A	5	A		AMD	PL 533	11
12	8868	2-B			AMD	PL 488	2	12	13156	2	A		RP	PL 533	12
12	8868	5			AMD	PL 599	8	12	13201	3			AMD	PL 519	1
12	8868	7			NEW	PL 599	9								
12	8869	3-A			AMD	PL 488	3	13-C	1604	2			AMD	PL 559	A 11
12	8869	7-A			AMD	PL 488	4	13-C	1605	2			AMD	PL 559	A 12
12	8869	13			AMD	PL 488	5								
12	8876	2			AFF	PL 655	DD 24	14	556		1st		AMD	PL 559	A 13
12	8876	2			AMD	PL 655	DD 9	14	4422	11			COR	RR 1	19
12	8878-A				RP	PL 532	1	14	6013	2	A		COR	RR 1	20
12	8879				AMD	PL 532	2	14	6030-C	1			COR	RR 1	21
12	8881	12			NEW	PL 532	3	14	8102	3			AMD	PL 520	1
12	8883-B	1			AMD	PL 532	4	14	8105	1-A			NEW	PL 520	2
12	8883-B	2	G		AMD	PL 532	5								
12	8883-B	2	H		AMD	PL 532	6	15	101-D	4			AMD	PL 542	A 8
12	8883-B	6			AMD	PL 532	7	15	101-D	5	A		AMD	PL 542	A 9
12	8883-B	6-A			NEW	PL 532	8	15	103		1st		AMD	PL 542	A 10
12	8883-B	7			AMD	PL 532	9	15	224	2			AMD	PL 515	1
12	8883-B	9			NEW	PL 532	10	15	393	4-A			AMD	PL 541	1
12	8886	1			AMD	PL 532	11	15	709	1-B			NEW	PL 507	1
12	8901	1			AMD	PL 657	X 7	15	709	4-A			AMD	PL 507	2
12	10105	14			NEW	PL 668	1	15	709	4-B			AMD	PL 507	3
12	10108	3			AFF	PL 576	10	15	712	2			AMD	PL 507	4
12	10108	3			RP	PL 576	1	15	712	3			AMD	PL 507	5
12	10108	4			RP	PL 576	2	15	712	4			NEW	PL 507	6
12	10108	4-A			NEW	PL 576	3	15	713				RPR	PL 507	7
12	10151	4	B		AMD	PL 668	2	15	1023	4	B-1		NEW	PL 640	A 1
12	10155	1			AMD	PL 533	1	15	1023	4	C		AMD	PL 680	1
12	10157	1	A		AMD	PL 576	4	15	1023	4	C		AMD	PL 640	A 2
12	10263				RAL	RR 1	14	15	1026	4	C		AMD	PL 680	2
12	10264				RAL	RR 1	14	15	1094-A				NEW	PL 604	1
12	10264				AMD	PL 668	3	15	1095	2			AMD	PL 640	A 3
12	10265				NEW	PL 576	5	15	1097	2-A			NEW	PL 640	A 4
12	10701	3	D		AMD	PL 657	AA 55	15	2121	1			AMD	PL 601	1
12	10801	6	A		RP	PL 533	2	15	2121	1-A			AMD	PL 601	2
12	10853	7	A		AMD	PL 542	A 7	15	2121	2			AMD	PL 601	3
12	10902	6	E		RPR	PL 691	A 7	15	2122				AMD	PL 601	4
12	10902	9	F		AMD	PL 691	A 8	15	2123	2			AMD	PL 601	5
12	10903		last		AMD	PL 576	6	15	2123-A				NEW	PL 601	6
12	11109	3	I		COR	RR 1	15	15	2124				AMD	PL 601	7
12	11109	3	L		COR	RR 1	15	15	2125				AMD	PL 601	8
12	11109-A	4	A		COR	RR 1	16	15	2128				AMD	PL 601	9
12	11152	3	A		RP	PL 533	3	15	2128-A				NEW	PL 601	10
12	11152	7			AMD	PL 533	4	15	2128-B				NEW	PL 601	11
12	11160	2			COR	RR 1	17	15	2128-B	3			AFF	PL 601	14, 15
12	11226-A				RP	PL 561	1	15	2129	4			AMD	PL 601	12
12	11301	1			RPR	PL 691	A 9	15	2138	12			AMD	PL 601	13
12	12255	3			COR	RR 1	18	15	3301	6			AMD	PL 580	1
12	12301-A	3	C		AMD	PL 660	1	15	3311-A				AMD	PL 480	1

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TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC
15	3311-B	1			AMD PL 480		2	17-A	1101	16-A	O	NEW	PL 578		2
15	3311-B	2			AMD PL 480		3	17-A	1119			NEW	PL 465		6
15	3311-C	2			AMD PL 480		4	17-A	1120			NEW	PL 465		6
15	3311-C	6			AMD PL 480		4	17-A	1121			NEW	PL 465		6
15	5821	1			AMD PL 465		1	17-A	1122			NEW	PL 465		6
15	5821	2			AMD PL 465		1	17-A	1123			NEW	PL 465		6
15	5821	3-A			AMD PL 465		2	17-A	1175-A			NEW	PL 639		1
15	5821	6			AMD PL 465		3	17-A	1201	1	A-1	AMD	PL 465		7
15	5821	7			AMD PL 465		4	17-A	1201	1	A-1	AMD	PL 640	B	7
15	5821	7-A			AMD PL 597		1	17-A	1304	3	A	AMD	PL 568		1
15	5826	5			AMD PL 559	A	14	17-A	1401			NEW	PL 663		2
								17-A	1402			NEW	PL 663		2
16	614	1			RPR PL 691	A	10	17-A	1403			NEW	PL 663		2
								17-A	1404			NEW	PL 663		2
								17-A	1405			NEW	PL 663		2
17	1021	4	C		AMD PL 559	A	15								
17	1021	5-A			AMD PL 559	A	16								
17	1027	2			AMD PL 559	A	17	18	1655			RP	PL 691	D	4
17	1637				NEW PL 583		1								
17	2005	3			AMD PL 657	AA	56	18-A	5-511			NEW	PL 564		1
17	2911	3			AMD PL 559	A	18	18-A	5-512			NEW	PL 564		1
17	2913	3			AMD PL 559	A	19	18-A	5-513			NEW	PL 564		1
17	3853-C				RPR PL 561		2	18-A	5-514			NEW	PL 564		1
								18-A	5-515			NEW	PL 564		1
17-A	2	10			AMD PL 691	A	11	18-A	5-516			NEW	PL 564		1
17-A	15	1	A		RPR PL 691	A	12	18-A	5-521			NEW	PL 564		1
17-A	207-A	1	B		AMD PL 640	B	1	18-A	5-522			NEW	PL 564		1
17-A	208	1	C		AMD PL 640	B	2	18-A	5-523			NEW	PL 564		1
17-A	209-A	1	B		AMD PL 640	B	3	18-A	5-524			NEW	PL 564		1
17-A	210-B	1	B		AMD PL 640	B	4	18-A	5-525			NEW	PL 564		1
17-A	210-C	1	B		AMD PL 640	B	5	18-A	5-526			NEW	PL 564		1
17-A	211-A	1	B		AMD PL 640	B	6	18-A	5-527			NEW	PL 564		1
17-A	253	2	I		RPR PL 691	A	13	18-A	5-528			NEW	PL 564		1
17-A	253	2	J		AMD PL 542	A	11	18-A	5-529			NEW	PL 564		1
17-A	255-A	1	Q		AMD PL 542	A	12	18-A	5-531			NEW	PL 564		1
17-A	255-A	1	R		AMD PL 542	A	12	18-A	5-532			NEW	PL 564		1
17-A	255-A	1	U		RPR PL 691	A	14	18-A	5-541			NEW	PL 564		1
17-A	255-A	1	V		RPR PL 691	A	15	18-A	5-542			NEW	PL 564		1
17-A	259				RP PL 597		2	18-A	5-543			NEW	PL 564		1
17-A	259-A				NEW PL 597		3	18-A	5-551			NEW	PL 564		1
17-A	260	1	I		AMD PL 542	A	13	18-A	5-552			NEW	PL 564		1
17-A	260	1	K		RPR PL 691	A	16	18-A	5-553			NEW	PL 564		1
17-A	353-A				NEW PL 585		14	18-A	5-554			NEW	PL 564		1
17-A	708	2			AMD PL 504		1	18-A	5-601	a		AMD	PL 542	A	14
17-A	852	2			AMD PL 672		1	18-A	5-601	b		AMD	PL 542	A	15
17-A	905-C				NEW PL 687		1	18-A	5-606			AMD	PL 542	A	16
17-A	909				NEW PL 526		1	18-A	5-608			RP	PL 542	A	17
17-A	952	11			AMD PL 630		2	18-A	5-609			AMD	PL 542	A	18
17-A	959	3	D		AMD PL 559	A	20	18-A	5-613	2		AMD	PL 542	A	19
17-A	960	5			AMD PL 559	A	21								
17-A	1057	5			RPR PL 691	A	17	18-B	905			COR	RR 1		22
17-A	1101	16-A			NEW PL 465		5								
17-A	1101	16-A	G		AMD PL 578		1	19-A	651	2		AMD	PL 511		1
17-A	1101	16-A	H		AMD PL 578		1	19-A	701	3		AMD	PL 542	A	20
17-A	1101	16-A	I		NEW PL 578		2	19-A	1653	6-A	A	AMD	PL 597		4
17-A	1101	16-A	J		NEW PL 578		2	19-A	2103	3		AMD	PL 477	L	1
17-A	1101	16-A	K		NEW PL 578		2	19-A	2103	3-A		AMD	PL 477	L	2
17-A	1101	16-A	L		NEW PL 578		2	19-A	2302	2		AMD	PL 550		1
17-A	1101	16-A	M		NEW PL 578		2	19-A	2402			AMD	PL 477	L	3
17-A	1101	16-A	N		NEW PL 578		2	19-A	2651			AMD	PL 528		1

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TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC	TITLE	SECTION	SUB	PARA	EFF	CHAPTER	PART	SEC	
19-A	2652				AMD	PL 528	2	20-A	2103				RP	PL 678	C	2
19-A	2653				AMD	PL 477	L	4	20-A	2104			RP	PL 678	C	2
19-A	2654				AMD	PL 528		3	20-A	2307		1st	AMD	PL 655	E	1
19-A	2655				AMD	PL 528		4	20-A	2401	2-A		NEW	PL 570		2
19-A	2657		1st		AMD	PL 528		5	20-A	2403	5		AMD	PL 570		3
19-A	2659				AMD	PL 528		6	20-A	2405	1	C	AMD	PL 570		4
19-A	2660				AMD	PL 528		7	20-A	2405	4	C	AMD	PL 570		5
19-A	2662		1st		AMD	PL 528		8	20-A	2405	4	D	AMD	PL 570		5
19-A	2662	4			AMD	PL 528		9	20-A	2405	4	E	NEW	PL 570		6
19-A	2664				AMD	PL 528		10	20-A	2405	8		AMD	PL 570		7
19-A	2667				AMD	PL 528		11	20-A	2405	9		AMD	PL 570		8
19-A	2668				AMD	PL 528		12	20-A	2406	2	F	AMD	PL 570		9
19-A	2671				RP	PL 528		13	20-A	2408	1	A	AMD	PL 570		10
19-A	4002	4			AMD	PL 640	C	1	20-A	2410	2		AMD	PL 570		11
19-A	4012	6			AMD	PL 680		3	20-A	2411	6	C	NEW	PL 570		12
									20-A	2412	4	D	AMD	PL 570		13
20-A	1	2-A	C		AMD	PL 614		2	20-A	2412	5	C	AMD	PL 570		14
20-A	1	41			RP	PL 678	C	1	20-A	2412	5	G	NEW	PL 570		15
20-A	203	1	A		AMD	PL 655	D	7	20-A	2412	5	H	NEW	PL 570		15
20-A	203	1	F		AMD	PL 655	D	8	20-A	2412	6	C	AMD	PL 570		16
20-A	203	1	K		NEW	PL 655	D	9	20-A	2412	7		RP	PL 570		17
20-A	203	1	L		NEW	PL 655	D	9	20-A	2412-A			NEW	PL 570		18
20-A	203	1	M		NEW	PL 655	D	9	20-A	2413	2		AMD	PL 570		19
20-A	253	9			NEW	PL 669		1	20-A	2413	2	A	AMD	PL 679		2
20-A	254	3			AMD	PL 679		1	20-A	2902	3		AMD	PL 669		2
20-A	254	11-A			NEW	PL 659		1	20-A	3002			AMD	PL 679		3
20-A	254	13			RAL	RR 1	23,24		20-A	3252	4-A		RP	PL 678	F	1
20-A	254	14			RAL	RR 1	23		20-A	3271	3	C	AMD	PL 614		8
20-A	254	15			RAL	RR 1	24		20-A	3272	1		RP	PL 614		9
20-A	254	16			NEW	PL 571		1	20-A	3272	2		AMD	PL 614		10
20-A	254	17			NEW	PL 688		1	20-A	3273	1		AMD	PL 614		11
20-A	255	6			NEW	PL 571		2	20-A	4010			RAL	RR 1		26
20-A	1001	8-A			NEW	PL 614		3	20-A	4011			RAL	RR 1		26
20-A	1001	9			AMD	PL 614		4	20-A	4502	1		AMD	PL 669		3
20-A	1001	9-C			NEW	PL 614		5	20-A	4502	6		AMD	PL 669		4
20-A	1001	9-D			NEW	PL 614		6	20-A	4502	8		AMD	PL 669		5
20-A	1001	14	D		RAL	RR 1	25		20-A	4722	3		AMD	PL 686		1
20-A	1001	14	E		RAL	RR 1	25		20-A	4722	7		NEW	PL 669		6
20-A	1001	15	H		AMD	PL 659		2	20-A	4722	8		NEW	PL 669		6
20-A	1001	15-A			NEW	PL 614		7	20-A	4722-A			NEW	PL 669		7
20-A	1001	19			NEW	PL 688		2	20-A	4801	2-A		AMD	PL 686		2
20-A	1055	10			AMD	PL 635	A	1	20-A	5031	1		AMD	PL 614		12
20-A	1461-B	3	C		AMD	PL 485		1	20-A	5051-A			AMD	PL 614		13
20-A	1461-B	3	D		NEW	PL 485		2	20-A	5052-A			AMD	PL 614		14
20-A	1462	2			AMD	PL 655	C	1	20-A	5053-A	1		AMD	PL 614		15
20-A	1465	3			AMD	PL 691	D	5	20-A	5053-A	2		AMD	PL 614		16
20-A	1465	3			AMD	PL 691	D	6	20-A	5053-A	4		AMD	PL 614		17
20-A	1465	4			AMD	PL 691	D	7	20-A	5054			AMD	PL 614		18
20-A	1465	4			AMD	PL 691	D	8	20-A	5103	5	A	AMD	PL 614		19
20-A	1466	9			RPR	PL 678	J	1	20-A	5151	2	J	AMD	PL 614		20
20-A	1466	9-A			NEW	PL 678	J	2	20-A	5205	2		AMD	PL 502		1
20-A	1466	9-B			NEW	PL 678	J	3	20-A	5205	6-A		NEW	PL 651		1
20-A	1466	13			AMD	PL 678	J	4	20-A	5205	9		NEW	PL 678	E	1
20-A	1466	13-A			NEW	PL 678	J	5	20-A	5205	10		NEW	PL 678	E	1
20-A	1486	4			AMD	PL 678	B	1	20-A	6051	1	D	AMD	PL 678	A	1
20-A	1506	4			RPR	PL 691	A	18	20-A	6051	1	H	AMD	PL 678	A	2
20-A	1511				AMD	PL 678	K	1	20-A	6051	1	I	AMD	PL 678	A	3
20-A	2101				RP	PL 678	C	2	20-A	6051	1	J	NEW	PL 678	A	4
20-A	2102				RP	PL 678	C	2	20-A	6051	3		AMD	PL 678	A	5

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20-A	6051	7	B	AMD	PL 678	A	6	20-A	8601-A	1		RPR	PL 517		1
20-A	6051	7	C	AMD	PL 678	A	6	20-A	8601-A	2-A		RP	PL 517		2
20-A	6051	7	D	RP	PL 678	A	7	20-A	8601-A	12		AMD	PL 517		3
20-A	6103	3		AMD	PL 521		1	20-A	8601-A	13		AMD	PL 517		4
20-A	6103	9		AMD	PL 521		2	20-A	8601-A	14		AMD	PL 517		5
20-A	6554			NEW	PL 659		3	20-A	8601-A	22		NEW	PL 517		6
20-A	6621			AMD	PL 657	AA	57	20-A	8606-A	2	A	AMD	PL 517		7
20-A	6952		1st	AMD	PL 679		4	20-A	8606-A	3		AMD	PL 517		8
20-A	7001	1-A		AMD	PL 655	OO	1	20-A	8802	2	A	AMD	PL 678	G	1
20-A	7001	1-B	B	AMD	PL 542	A	21	20-A	8802	4		RP	PL 678	G	2
20-A	7001	2-A		AMD	PL 477	F	1	20-A	10012			NEW	PL 615		1
20-A	7001	2-B		AMD	PL 655	OO	2	20-A	11501			RP	PL 595		1
20-A	7001	2-C		AMD	PL 678	I	1	20-A	11502			RP	PL 595		1
20-A	7001	4-A		RP	PL 655	OO	3	20-A	11503			RP	PL 595		1
20-A	7202	10		COR	RR 1		27	20-A	11504			RP	PL 595		1
20-A	7202	11		COR	RR 1		28	20-A	11505			RP	PL 595		1
20-A	7202	11		RAL	RR 1		29	20-A	11506			RP	PL 595		1
20-A	7202	12		RAL	RR 1		29	20-A	11507			RP	PL 595		1
20-A	7209			AMD	PL 655	OO	4	20-A	11508			RP	PL 595		1
20-A	7258	1-A		AMD	PL 542	A	22	20-A	11509			RP	PL 595		1
20-A	7258	1-B		AMD	PL 542	A	22	20-A	11510			RP	PL 595		1
20-A	7402			AMD	PL 683		1	20-A	11511			RP	PL 595		1
20-A	7403			AMD	PL 683		2	20-A	11512			RP	PL 595		1
20-A	7404	1		AMD	PL 683		3	20-A	11513			RP	PL 595		1
20-A	7405	1		AMD	PL 683		4	20-A	11514			RP	PL 595		1
20-A	7405	2		AMD	PL 683		5	20-A	11611	5		AMD	PL 642		1
20-A	7407	2		AMD	PL 683		6	20-A	11611	6		RP	PL 642		2
20-A	7407	4-A		AMD	PL 683		7	20-A	11614	2		AMD	PL 642		3
20-A	7407	4-B		NEW	PL 683		8	20-A	11614	7		AMD	PL 642		4
20-A	7407	14		AMD	PL 683		9	20-A	11614	8		NEW	PL 642		5
20-A	7407	18		AMD	PL 683		9	20-A	11616	2		AMD	PL 642		6
20-A	7408			AMD	PL 683		10	20-A	11617	3		NEW	PL 642		7
20-A	8101-A			NEW	PL 678	H	1	20-A	12541	1-A		NEW	PL 665		1
20-A	8102			RP	PL 678	H	2	20-A	12542	2-A	D	AMD	PL 548		7
20-A	8103			RP	PL 678	H	3	20-A	12542	3	B	AMD	PL 665		2
20-A	8201			AMD	PL 473		1	20-A	12542	3	C	AMD	PL 665		3
20-A	8203	2		AMD	PL 473		2	20-A	12542	3-A	A	AMD	PL 665		4
20-A	8204	1	J	AMD	PL 473		3	20-A	12545			NEW	PL 665		5
20-A	8301-A	1-A		NEW	PL 679		5	20-A	12703			AMD	PL 679		23
20-A	8301-A	5		RP	PL 679		6	20-A	12704	1		AMD	PL 679		24
20-A	8305-A	1	B	AMD	PL 679		7	20-A	12704	4		AMD	PL 679		25
20-A	8305-A	3		AMD	PL 679		8	20-A	12706	4-A		AMD	PL 691	B	20
20-A	8306-A			RP	PL 679		9	20-A	12709	11-A		NEW	PL 686		5
20-A	8306-B			NEW	PL 679		10	20-A	13007	2		AMD	PL 702		1
20-A	8401			RPR	PL 679		11	20-A	13008			NEW	PL 635	B	1
20-A	8402			AMD	PL 679		12	20-A	13011	6		RPR	PL 635	B	2
20-A	8402			AMD	PL 686		3	20-A	13011	10		AMD	PL 635	B	3
20-A	8403-A	2		AMD	PL 679		13	20-A	13012	2-A		AMD	PL 635	B	4
20-A	8403-A	8		NEW	PL 679		14	20-A	13013-A			AMD	PL 702		2
20-A	8404	3		AMD	PL 679		15	20-A	13016	2		AMD	PL 669		8
20-A	8405			AMD	PL 679		16	20-A	13019-C	1		AMD	PL 679		26
20-A	8451	2		RPR	PL 679		17	20-A	13201	5		AMD	PL 635	A	2
20-A	8451	5		AMD	PL 679		18	20-A	13451	3		AFF	PL 540		3
20-A	8451-A			AMD	PL 679		19	20-A	13451	3		AMD	PL 540		2
20-A	8451-A			AMD	PL 686		4	20-A	13701			NEW	PL 635	A	3
20-A	8457	1		AMD	PL 679		20	20-A	13702			NEW	PL 635	A	3
20-A	8459	2		AMD	PL 679		21	20-A	13703			NEW	PL 635	A	3
20-A	8463-A			NEW	PL 489		1	20-A	13704			NEW	PL 635	A	3
20-A	8466			AMD	PL 679		22	20-A	13705			NEW	PL 635	A	3

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20-A	13706				NEW	PL 635	A	21-A	673	1	A	AMD	PL 534		15
20-A	15005	3			AMD	PL 678	C	21-A	711	4		AMD	PL 534		16
20-A	15671	7	A		AMD	PL 655	C	21-A	753-B	2	B	AMD	PL 534		17
20-A	15671	7	B		AMD	PL 477	C	21-A	753-B	2	D	AMD	PL 534		18
20-A	15671	7	B		AMD	PL 655	C	21-A	753-B	4		AMD	PL 534		19
20-A	15671	7	C		AMD	PL 477	C	21-A	753-B	5		AMD	PL 534		20
20-A	15671	7	C		AMD	PL 655	C	21-A	777-A			AMD	PL 534		21
20-A	15671-A	2	B		AMD	PL 477	C	21-A	781-A			AMD	PL 534		22
20-A	15671-A	2	B		AMD	PL 655	C	21-A	1017	3-B		RP	PL 558		1
20-A	15672	1-D			NEW	PL 679		21-A	1017	5		AMD	PL 522		1
20-A	15672	25-A			AMD	PL 655	C	21-A	1019-B	4	A	AMD	PL 558		2
20-A	15672	32-D			RP	PL 679		21-A	1020-A	4-A		AMD	PL 558		3
20-A	15681	1	D		NEW	PL 635	A	21-A	1020-A	5-A	C	AMD	PL 558		4
20-A	15681	6			NEW	PL 635	A	21-A	1020-A	5-A	D	AMD	PL 558		4
20-A	15683-A				AMD	PL 655	C	21-A	1020-A	5-A	E	RP	PL 558		5
20-A	15689	1	A		AMD	PL 655	C	21-A	1059	2	A	RPR	PL 691	A	19
20-A	15689	1	B		AMD	PL 655	C	21-A	1104			AMD	PL 662		14
20-A	15689	7			AFF	PL 477	D	21-A	1125	7-A		AFF	PL 522		4
20-A	15689	7			RP	PL 477	D	21-A	1125	7-A		RPR	PL 522		2
20-A	15689	8			AFF	PL 477	D	21-A	1125	8-A	A	AMD	PL 558		6
20-A	15689	8			RP	PL 477	D	21-A	1125	8-A	B	AMD	PL 558		6
20-A	15689	12			NEW	PL 655	F	21-A	1125	8-A	C	RP	PL 558		7
20-A	15689	12			NEW	PL 655	C	21-A	1125	9		RP	PL 558		8
20-A	15689-A	12			AMD	PL 702		21-A	1125	12		AMD	PL 522		3
20-A	15689-A	21			NEW	PL 655	C	21-A	1125	13-A		AMD	PL 558		9
20-A	15689-A	22			NEW	PL 655	C	21-A	1127	1		AMD	PL 558		10
20-A	15690	1	D		AMD	PL 655	C	21-A	1205	1		RPR	PL 466		1
20-A	15903	3	A		AMD	PL 691	B	21-A	1205	2		RPR	PL 466		1
20-A	15905	3			AMD	PL 678	D								
20-A	15908	1			AMD	PL 691	B	22	1-A	3		NEW	PL 542	A	23
20-A	15908	3			AMD	PL 691	B	22	13	6	B	AMD	PL 687		2
20-A	15909	1			RP	PL 678	C	22	13-A			NEW	PL 593		1
20-A	15909	2			AMD	PL 678	C	22	21	4		AMD	PL 687		3
20-A	15909	3			AMD	PL 678	C	22	23			NEW	PL 687		4
20-A	15909	4			RP	PL 678	C	22	42	1-A		AMD	PL 542	A	24
20-A	15909	5			NEW	PL 678	A	22	254-D	4	D	AMD	PL 657	HH	1
20-A	15909	6			NEW	PL 678	A	22	272	2		AMD	PL 657	AA	58
20-A	15910	4			AMD	PL 691	B	22	328	22	B	AMD	PL 648		1
20-A	19251	3			COR	RR 1		22	333	1	A-1	AMD	PL 648		2
								22	333	2		AMD	PL 648		3
21-A	22	3			AMD	PL 662		22	333-A	3-A		AMD	PL 648		4
21-A	22	5			AMD	PL 662		22	334-A	1-A	B	AMD	PL 648		5
21-A	22	7			AMD	PL 662		22	335	1-A		AMD	PL 648		6
21-A	23	7			AMD	PL 534		22	335	2		AMD	PL 648		7
21-A	23	7-A			AMD	PL 534		22	335	3		AMD	PL 648		8
21-A	23	7-B			NEW	PL 534		22	335	5-A	I	AMD	PL 648		9
21-A	121	1-A			AMD	PL 534		22	335	6		RPR	PL 648		10
21-A	121-A				NEW	PL 534		22	335	7		AMD	PL 648		11
21-A	122		1st		AMD	PL 534		22	336			AMD	PL 648		12
21-A	125				AMD	PL 534		22	337	2	B	AMD	PL 648		13
21-A	129	3			AMD	PL 534		22	337	3		AMD	PL 648		14
21-A	130				AMD	PL 534		22	337	5		AMD	PL 636		1
21-A	156	2			AMD	PL 534		22	337	5		AMD	PL 648		15
21-A	196-A	1	E		AMD	PL 534		22	337	7		AMD	PL 648		16
21-A	355	1			AMD	PL 534		22	337	8		NEW	PL 648		17
21-A	605-A	2	D		AMD	PL 534		22	338	1		AMD	PL 648		18
21-A	606-A				AMD	PL 534		22	339	2	B	AMD	PL 648		19
21-A	630	1	A		AFF	PL 613		22	339	2	D	AMD	PL 648		20
21-A	630	1	A		AMD	PL 613		22	339	5		AMD	PL 648		21

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22	339	6			AMD PL 648		22	22	2053	2-A			AMD PL 542	A	30
22	346	3			AMD PL 648		23	22	2167		1st		AMD PL 535		2
22	350-C				AMD PL 648		24	22	2175				AMD PL 587		1
22	666	1			AFF PL 655	MM	26	22	2351				AMD PL 657	AA	62
22	666	1			AMD PL 655	MM	12	22	2383-B	2-A			NEW PL 465		8
22	666	2			AFF PL 655	MM	26	22	2383-B	3	D-1		NEW PL 465		9
22	666	2			AMD PL 655	MM	12	22	2390				RP PL 465		10
22	676	5			AFF PL 655	KK	34	22	2391				RP PL 465		10
22	676	5			AMD PL 655	KK	17	22	2392				RP PL 465		10
22	676	6			AFF PL 655	MM	26	22	2393				RP PL 465		10
22	676	6			AMD PL 655	MM	13	22	2394				RP PL 465		10
22	679-A	2			AMD PL 691	C	5	22	2423-A	7			RAL RR 1		31
22	679-B	8			AFF PL 655	KK	34	22	2423-A	9			RAL RR 1		31
22	679-B	8			AMD PL 655	KK	18	22	2425	5			RPR PL 691	A	21
22	802	4-A	A		AMD PL 542	A	25	22	2425	8	G		RPR PL 691	A	22
22	812	1	G		AMD PL 542	A	26	22	2499		1st		RPR PL 589		1
22	1471-A				AMD PL 510		2	22	2500-A	1			AMD PL 691	D	9
22	1471-BB				NEW PL 510		4	22	2702	3			AMD PL 511		2
22	1471-Q				RP PL 510		3	22	2703				AMD PL 511		3
22	1511	1			AMD PL 701		1	22	2704				AMD PL 511		4
22	1511	6			AMD PL 617		1	22	2706	8			AMD PL 511		5
22	1511	13			NEW PL 701		2	22	2763		1st		AMD PL 511		6
22	1511	13			NEW PL 655	M	1	22	2764	1			AMD PL 511		7
22	1511	14			NEW PL 701		2	22	2764	2			AMD PL 511		7
22	1551-A	5			RP PL 657	AA	59	22	2764	3	A		AMD PL 511		8
22	1552-A				AMD PL 535		1	22	2764	5			AMD PL 511		9
22	1555-D	1			RP PL 524		1	22	3034	2			AMD PL 524		2
22	1558	3			RP PL 559	A	22	22	3034	5			NEW PL 524		3
22	1558	8	A		AMD PL 657	AA	60	22	3104	12			AMD PL 687		10
22	1558-A	2			AMD PL 657	AA	61	22	3107				RPR PL 512		2
22	1559	3			RP PL 559	A	23	22	3172-B	1			AMD PL 542	A	31
22	1602	4			AMD PL 559	A	24	22	3172-B	4			AMD PL 542	A	32
22	1708	4			RP PL 655	T	1	22	3174-G	1	E		AFF PL 657	Z	2
22	1711-C	6	E		AMD PL 572		1	22	3174-G	1	E		AMD PL 657	Z	1
22	1711-C	18			RPR PL 691	A	20	22	3174-G	1	E		AMD PL 477	Z	1
22	1711-E	1-A			RP PL 494		1	22	3174-I	1	B-1		AMD PL 657	BB	2
22	1711-E	1-B			RP PL 494		2	22	3174-I	2			AMD PL 542	A	33
22	1711-E	2			AMD PL 494		3	22	3174-NN				AFF PL 657	H	5
22	1711-E	2-A			RP PL 494		4	22	3174-NN				RP PL 657	H	2
22	1711-E	3			AMD PL 494		5	22	3174-OO				AFF PL 657	H	5
22	1711-E	4			RP PL 494		6	22	3174-OO				RP PL 657	H	3
22	1714-A	1	C		AMD PL 687		5	22	3174-QQ				RAL RR 1		32
22	1714-A	1	F		AMD PL 542	A	27	22	3174-RR				RAL RR 1		32
22	1714-A	1	I		AMD PL 687		6	22	3174-SS				NEW PL 477	I	1
22	1714-A	1	J		AMD PL 687		6	22	3174-TT				RP PL 657	O	1
22	1714-A	4	A		AMD PL 687		7	22	3174-TT				NEW PL 477	O	1
22	1714-A	4	B		AMD PL 687		7	22	3174-UU				NEW PL 657	S	1
22	1714-A	4	C		AMD PL 687		8	22	3174-UU				NEW PL 657	O	2
22	1714-C				AMD PL 548		8	22	3186		last		AMD PL 542	A	34
22	1714-D				AFF PL 657	H	5	22	3187				AMD PL 542	A	35
22	1714-D				NEW PL 657	H	1	22	3273	10			NEW PL 655	U	1
22	1714-D				NEW PL 687		9	22	3472	2-A			RP PL 657	BB	3
22	1812-B				AMD PL 542	A	28	22	3573	1	B		AMD PL 542	A	36
22	1826	2	B		AMD PL 542	A	29	22	3739	2	G		AMD PL 657	AA	63
22	1951				AMD PL 512		1	22	3762	8	D		RP PL 655	S	1
22	2016		1st		AMD PL 531		1	22	3762	8	F		NEW PL 655	S	2
22	2031-A				NEW PL 531		2	22	3762	18			RAL RR 1		33
22	2032				RPR PL 531		3	22	3762	20			RAL RR 1		33
22	2033				AMD PL 531		4	22	3811	3			AMD PL 687		11

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22	3811	4			AMD	PL 687	12	23	73	4			AMD	PL 655	JJ	9
22	4004-A	3			AMD	PL 657	AA	64	23	73	6		RP	PL 610	B	1
22	4038-E		1st		COR	RR 1		34	23	73	7		NEW	PL 610	B	2
22	4099-H	1			COR	RR 1		35	23	754	1		AFF	PL 652		14
22	4305	3-C			NEW	PL 655	R	1	23	754	1		AMD	PL 652		2
22	4308	1-A			NEW	PL 655	R	2	23	954			AFF	PL 613		29
22	4308	1-B			NEW	PL 655	R	2	23	954			AMD	PL 613		25
22	5104	2			RP	PL 657	BB	4	23	1201	16-A		RP	PL 610	C	1
22	5104	4			RP	PL 657	BB	5	23	1654			AFF	PL 652		14
22	5104	5-A			AMD	PL 542	A	37	23	1654			RP	PL 652		3
22	5104	6			RP	PL 657	BB	6	23	1654-A			AFF	PL 652		14
22	5104	7-A			AMD	PL 542	A	38	23	1654-A			NEW	PL 652		4
22	5104-A				AMD	PL 657	BB	7	23	1801			AFF	PL 652		14
22	5105				RP	PL 657	BB	8	23	1801			AMD	PL 652		5
22	5106				AMD	PL 657	BB	9	23	1803-B			AFF	PL 652		14
22	5106	2	E		AMD	PL 542	A	39	23	1803-B			AMD	PL 652		6
22	5106	11-B			AMD	PL 542	A	40	23	1803-C			AFF	PL 652		14
22	5107-I		1st		AMD	PL 495		1	23	1803-C			NEW	PL 652		7
22	5107-I	4			AMD	PL 495		2	23	1804			AFF	PL 652		14
22	5304	1-A			NEW	PL 542	A	41	23	1804			AMD	PL 652		8
22	5304	3			RP	PL 657	BB	10	23	1807			AFF	PL 652		14
22	5304	9			RP	PL 657	BB	11	23	1807			AMD	PL 652		9
22	5310	9			AMD	PL 542	A	42	23	1914	5		COR	RR 1		36
22	6108				AMD	PL 657	BB	12	23	1961	7		AMD	PL 476		1
22	6110		4th		AMD	PL 542	A	43	23	1963			AMD	PL 476		2
22	6111	4			AMD	PL 542	A	44	23	1964	6		AMD	PL 476		3
22	6111	5			AMD	PL 542	A	45	23	1973	4		AMD	PL 476		4
22	6202	5			RP	PL 657	BB	13	23	1980	2-A	C	AMD	PL 476		5
22	7246	4			RP	PL 657	AA	65	23	1980	2-A	G	AMD	PL 476		6
22	7247				AMD	PL 657	AA	66	23	1980	2-A	H	RP	PL 476		7
22	7248				AMD	PL 657	AA	67	23	3360-A	1	D	AMD	PL 588		1
22	7249				AMD	PL 657	AA	68	23	3360-A	1	E	AMD	PL 588		2
22	7249	5			NEW	PL 477	K	1	23	3360-A	3	F	AMD	PL 588		3
22	7250				AMD	PL 657	AA	69	23	3360-A	3	G	AMD	PL 588		4
22	7250	4	G		AMD	PL 657	O	3	23	3360-A	5-D		AMD	PL 588		5
22	7250	6			NEW	PL 657	O	4	23	3360-A	5-E	A	AMD	PL 588		6
22	7251	1			AMD	PL 657	AA	70	23	3360-A	5-I	B	AMD	PL 588		7
22	7252				AMD	PL 657	AA	71	23	3360-A	5-I	C	AMD	PL 588		7
22	7302	6			AMD	PL 542	A	46	23	3360-A	5-K		NEW	PL 588		8
22	7861		1st		AMD	PL 657	BB	14	23	3360-A	6-C		AMD	PL 588		9
22	7924	1			AMD	PL 657	EE	1	23	3360-A	10		RP	PL 588		10
22	7933	3	B		AMD	PL 559	A	25	23	3360-A	10-A		NEW	PL 588		11
22	7942	7			AMD	PL 542	A	47	23	4210-B			AMD	PL 649	E	2
22	8307	2			AMD	PL 691	B	24	23	4210-C	3		AFF	PL 652		14
22	8308				RP	PL 641		1	23	4210-C	3		AMD	PL 652		10
22	8704	4			AMD	PL 494		7	23	4210-E			AFF	PL 652		14
22	8704	7			AMD	PL 494		8	23	4210-E			RP	PL 652		11
22	8707	4			AMD	PL 524		4	23	7103-A			AMD	PL 649	E	3
22	8712	2			AMD	PL 525		1	23	7105	3	A	AFF	PL 655	JJ	41
22	8713				RP	PL 494		9	23	7105	3	A	AMD	PL 655	JJ	10
22	8752	2			AMD	PL 542	A	48	23	8115			AMD	PL 524		6
									23	8115-A			NEW	PL 524		7
22-A	101	1-A			NEW	PL 542	A	49								
22-A	203	1	C		AMD	PL 542	A	50	24	2505			AMD	PL 524		8
22-A	206	4			AMD	PL 542	A	51	24	2510	1	D	AMD	PL 524		9
22-A	207	7			AMD	PL 542	A	52	24	2510	1	E	AMD	PL 524		9
									24	2510	1	F	NEW	PL 524		10
23	63				RPR	PL 524		5								
23	73	4			AFF	PL 655	JJ	41	24-A	601	29		RAL	RR 1		37

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24-A	601	30			RAL	RR	1	25	2701				RP	PL	613	26	
24-A	1402	1	E		AMD	PL	554	1	25	2702			AFF	PL	613	29	
24-A	1402	1	F		AMD	PL	554	1	25	2702			RP	PL	613	26	
24-A	1402	1	G		NEW	PL	554	2	25	2702-A			AFF	PL	613	29	
24-A	1413	2			AMD	PL	554	3	25	2702-A			RP	PL	613	26	
24-A	2174-B				AMD	PL	493	1	25	2703			AFF	PL	613	29	
24-A	2188				NEW	PL	631	1	25	2703			RP	PL	613	26	
24-A	2393	2	D		AMD	PL	524	11	25	2703-A			AFF	PL	613	29	
24-A	2509	1	B		COR	RR	1	38	25	2703-A			RP	PL	613	26	
24-A	2736-C	3			AMD	PL	621	1	25	2704			AFF	PL	613	29	
24-A	2803-A	2			COR	RR	1	39	25	2704			RP	PL	613	26	
24-A	2808-B	2	C		AMD	PL	638	1	25	2803-B	1	D	AMD	PL	680	4	
24-A	2808-B	2	D		AMD	PL	638	2	25	2803-B	1	D	AMD	PL	640	D	1
24-A	2808-B	2	E		COR	RR	1	40	25	2803-B	2		AMD	PL	680	5	
24-A	2808-B	2	H		AMD	PL	638	3	25	2803-B	3		AMD	PL	680	6	
24-A	2910-A	1	A		RP	PL	509	1	25	2901			AMD	PL	633	13	
24-A	3955	1	E		AMD	PL	621	2	25	2902	10		AMD	PL	633	14	
24-A	3957	5	B		RP	PL	621	3	25	2902	11		RP	PL	633	15	
24-A	3958	1	A		AMD	PL	621	4	25	2923-A			AMD	PL	505	3	
24-A	3958	2			AMD	PL	621	5	25	2927	1-F	B	AFF	PL	600	10	
24-A	3959				AMD	PL	621	6	25	2927	1-F	B	RP	PL	600	1	
24-A	3961	1			AMD	PL	621	7	25	2927	1-F	C	AFF	PL	600	10	
24-A	3961	1-A			NEW	PL	621	8	25	2927	1-F	C	RP	PL	600	1	
24-A	4303	3-B			COR	RR	1	41	25	2927	1-F	D	AFF	PL	600	10	
24-A	4303	15			RAL	RR	1	42	25	2927	1-F	D	RP	PL	600	1	
24-A	4303	17			RAL	RR	1	42	25	2927	1-F	E	AFF	PL	600	10	
24-A	4317	6			AMD	PL	691	A	23	25	2927	1-F	E	RP	PL	600	1
24-A	4317-A				AFF	PL	611	2	25	2927	1-F	F	AFF	PL	600	10	
24-A	4317-A				NEW	PL	611	1	25	2927	1-F	F	RP	PL	600	1	
24-A	4320				RAL	RR	1	43	25	2927	1-F	G	AFF	PL	600	10	
24-A	4320-H				RAL	RR	1	43	25	2927	1-F	G	RP	PL	600	1	
24-A	6914				AMD	PL	477	Y	1	25	2927	1-F	H	AFF	PL	600	10
24-A	7103	4	A		COR	RR	1	44	25	2927	1-F	H	RP	PL	600	1	
25	1535	3			NEW	PL	505	2	25	2927	1-F	I	AFF	PL	600	10	
25	1574	5			AMD	PL	597	5	25	2927	1-F	I	RP	PL	600	1	
25	2001-A	2			RPR	PL	691	A	24	25	2927	1-F	J	AFF	PL	600	10
25	2006		1st		AMD	PL	662	15	25	2927	1-F	J	RP	PL	600	1	
25	2011	5			NEW	PL	626	1	25	2927	2-B		AFF	PL	600	10	
25	2351-A				AMD	PL	582	3	25	2927	2-B		AMD	PL	600	2	
25	2353-A				AMD	PL	582	4	25	2929	1	B	AMD	PL	623	D	1
25	2356				AMD	PL	582	5	25	2929	3		AMD	PL	662	16	
25	2357-A				AMD	PL	582	6	25	2957			AMD	PL	662	17	
25	2371	3			RP	PL	633	7	25	3702-C	1		AMD	PL	596	1	
25	2371	5-A			NEW	PL	633	8	26		1-A		AMD	PL	569	1	
25	2372				AMD	PL	633	9	26		3		AFF	PL	655	DD	24
25	2373	4			AMD	PL	633	10	26		3		AMD	PL	655	DD	10
25	2374				AMD	PL	633	11	26	565-A			AMD	PL	691	B	25
25	2374				AFF	PL	655	FF	16	26	591	2	AFF	PL	643		14
25	2374				AMD	PL	655	FF	3	26	591	2	AMD	PL	643		3
25	2396		1st		AMD	PL	655	WW	1	26	591	3	AFF	PL	643		14
25	2450-A				AMD	PL	633	12	26	591	3		NEW	PL	643		4
25	2450-A				AFF	PL	655	FF	16	26	591-A		AFF	PL	643		14
25	2450-A				AMD	PL	655	FF	4	26	591-A		NEW	PL	643		5
25	2452		1st		RPR	PL	691	A	25	26	600	1	AMD	PL	537		1
25	2468	2	B		RPR	PL	553	1	26	664	3	F	AMD	PL	681		1
25	2468	2	C		RPR	PL	553	1	26	664	3	H	RP	PL	681		2
25	2468	4			RPR	PL	553	2	26	664	3	I	RP	PL	681		2
25	2701				AFF	PL	613	29	26	664	3	J	RP	PL	681		2

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26	666			AMD	PL 483		1	26	2006	7	A	AMD	PL 491		10
26	683	1	B	AMD	PL 657	AA	72	26	2006	7	C	AFF	PL 655	EE	30
26	687	1		AMD	PL 657	AA	73	26	2006	7	C	AMD	PL 655	EE	18
26	688			AMD	PL 657	AA	74	26	2031			AMD	PL 573		2
26	775	2	A	AMD	PL 614		21	26	2033	4	A	AMD	PL 627		4
26	872			AMD	PL 620		1	26	2172	4		RP	PL 491		11
26	873			AMD	PL 620		2	26	2172-A	2		AMD	PL 491		12
26	874			RP	PL 620		3	26	3201			NEW	PL 491		13
26	968	5	F	AMD	PL 559	A	26	26	3202			NEW	PL 491		13
26	979-H	7		AMD	PL 559	A	27	26	3203			NEW	PL 491		13
26	1029	7		AMD	PL 559	A	28	26	3204			NEW	PL 491		13
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26	1043	11	E	AFF	PL 643		14	26	3206			NEW	PL 491		13
26	1043	11	E	RPR	PL 643		6	26	3207			NEW	PL 491		13
26	1043	11	F	RPR	PL 691	A	27	26	3208			NEW	PL 491		13
26	1043	19	C	AMD	PL 691	A	28	26	3209			NEW	PL 491		13
26	1043	28		AMD	PL 678	C	8	26	3210			NEW	PL 491		13
26	1051	1		AMD	PL 645		1	26	3211			NEW	PL 491		13
26	1192		2nd	NEW	PL 645		5	26	3212			NEW	PL 491		13
26	1192	2		AMD	PL 645		2								
26	1192	12		AMD	PL 645		3	27	8			NEW	PL 685		1
26	1192	13		NEW	PL 645		4	27	452	3-A		AMD	PL 691	B	26
26	1193	2		AMD	PL 645		6								
26	1193	3		AMD	PL 645		7	28-A	2	11-A		RP	PL 629		1
26	1193	5		AMD	PL 645		8	28-A	2	15	I	AMD	PL 629		2
26	1193	6		AMD	PL 645		9	28-A	2	15	M	AMD	PL 629		3
26	1193	10	C	NEW	PL 516		1	28-A	2	16-A		AMD	PL 629		4
26	1221	3	C	AMD	PL 499		1	28-A	2	29-B		NEW	PL 629		5
26	1221	3	C-1	AFF	PL 499		4	28-A	83	5		AMD	PL 693		1
26	1221	3	C-1	NEW	PL 499		2	28-A	83	5-A		NEW	PL 693		2
26	1221-B	1	B	AMD	PL 691	A	29	28-A	201			RP	PL 629		6
26	1289	7		AMD	PL 559	A	29	28-A	401-A			RP	PL 629		7
26	1321			RP	PL 565		1	28-A	402			RP	PL 629		7
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26	1324			RP	PL 565		1	28-A	707	3		AMD	PL 629		9
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26	1328			RP	PL 565		1	28-A	709	2	H	AMD	PL 629		13
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26	1330			RP	PL 565		1	28-A	709	2	K	NEW	PL 629		15
26	1331			RP	PL 565		1	28-A	803	2-A		RP	PL 559	A	31
26	1332			RP	PL 565		1	28-A	805	3		RP	PL 559	A	32
26	1333			RP	PL 565		1	28-A	1010-A	2	A	AMD	PL 497		1
26	1334			RP	PL 565		1	28-A	1012	5		RP	PL 629		16
26	1401-B	1	B	AFF	PL 655	D	11	28-A	1013			RP	PL 497		2
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26	1405			RP	PL 569		2	28-A	1071	6		AMD	PL 629		19
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26	2004-A	3		AMD	PL 627		2	28-A	1402-A		1st	AMD	PL 629		25
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28-A	1403-A	10			AMD	PL 629	30	29-A	2472	2-A			NEW	PL 654	11
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29-A	462-A				NEW	PL 605	1	30-A	1803				AMD	PL 604	2
29-A	501	7	G		NEW	PL 556	4	30-A	2303				AFF	PL 655	JJ 41
29-A	501	12-A			NEW	PL 556	5	30-A	2303				AMD	PL 655	JJ 11
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29-A	952	1	B		AMD	PL 556	7	30-A	3771	5			AMD	PL 545	1
29-A	954	5			AMD	PL 556	8	30-A	3772	1			AMD	PL 545	2
29-A	1256	4			RP	PL 654	1	30-A	3772	1-A			NEW	PL 545	3
29-A	1304	1	D		AMD	PL 654	2	30-A	3772	3	A		AMD	PL 545	4
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29-A	2251	7-A	C		AMD	PL 662	19	30-A	4312	4			AMD	PL 655	JJ 15
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30-A	4347-A				AMD	PL 655	JJ	32	1101		1		AMD	PL 491	14
30-A	4349-A	1	C		AMD	PL 542	A	32	1101		4-A		AMD	PL 650	1
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30-A	4353	2	B		AMD	PL 655	JJ	32	4700-G		2		AFF	PL 655	KK 34
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30-A	4452	7			AFF	PL 655	FF	32	8113		9		AMD	PL 691	A 37
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30-A	4725				AMD	PL 560		32	13795		5		AMD	PL 657	AA 84
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30-A	5223	3	A		AMD	PL 675		32	13796		3		AMD	PL 584	3
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30-A	5226	2			AFF	PL 655	JJ	32	13796		7		NEW	PL 584	4
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30-A	5250-J	4-B			RP	PL 655	L	32	13831		3		AMD	PL 577	3
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31	1677	2			AMD	PL 691	A	33	1953		1	G	COR	RR 1	48
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34-A	1216	1		AMD	PL 515		2	34-B	1409	11	C	NEW	PL 674		5
34-A	1218			NEW	PL 655	EEE	1	34-B	1409	13		AMD	PL 674		6
34-A	1403	9	A	AMD	PL 515		3	34-B	1431	2		AMD	PL 542	A	73
34-A	1403	9	F	AMD	PL 491		16	34-B	3861	3	B	AMD	PL 657	DD	1
34-A	3031	2	A	AMD	PL 542	A	59	34-B	3861	3	D	AMD	PL 657	DD	2
34-A	5404	3	E	AMD	PL 680		7	34-B	3861	3	E	AMD	PL 657	DD	3
34-A	5404	3-A		NEW	PL 680		8	34-B	3861	3	F	AMD	PL 657	DD	4
34-A	9887			AMD	PL 677		1	34-B	3863	9		NEW	PL 541		2
34-A	9887-A			NEW	PL 677		2	34-B	3873-A	1		AMD	PL 492		1
34-A	9887-B			NEW	PL 677		3	34-B	3873-A	2		AMD	PL 492		1
34-A	9921			AMD	PL 676		1	34-B	3873-A	3		AMD	PL 492		1
34-A	9922			NEW	PL 676		2	34-B	3873-A	7	B	AMD	PL 541		3
34-A	11203	6	B	AMD	PL 597		6	34-B	3873-A	10		RP	PL 492		2
34-A	11203	6	B	AFF	PL 604		4	34-B	5001	1-B		AMD	PL 542	A	74
34-A	11203	6	B	AMD	PL 604		3	34-B	5001	2		AMD	PL 542	A	75
34-A	11203	6-B		NEW	PL 597		7	34-B	5001	2-A		AMD	PL 542	A	76
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34-A	11273			NEW	PL 663		3	34-B	5001	3-B		AMD	PL 542	A	79
34-A	11274			NEW	PL 663		3	34-B	5001	3-C		AMD	PL 542	A	80
34-A	11281			NEW	PL 663		3	34-B	5001	3-D		AMD	PL 542	A	81
34-A	11282			NEW	PL 663		3	34-B	5002			AMD	PL 542	A	82
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34-A	11285			NEW	PL 663		3	34-B	5005			RP	PL 657	EE	4
34-A	11286			NEW	PL 663		3	34-B	5005	1		AMD	PL 542	A	85
34-A	11287			NEW	PL 663		3	34-B	5005	2	A	AMD	PL 542	A	86
34-A	11288			NEW	PL 663		3	34-B	5005	3		AMD	PL 542	A	87
34-A	11289			NEW	PL 663		3	34-B	5005	4	B	AMD	PL 542	A	88
34-A	11301			NEW	PL 663		3	34-B	5005	6	A	AMD	PL 542	A	89
34-A	11302			NEW	PL 663		3	34-B	5005	7		AMD	PL 542	A	90
34-A	11303			NEW	PL 663		3	34-B	5005-A			NEW	PL 657	EE	5
34-A	11304			NEW	PL 663		3	34-B	5201	2		AMD	PL 542	A	91
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34-B	1001	4-B		NEW	PL 542	A	60	34-B	5201	6		AMD	PL 542	A	92
34-B	1207	1	F	AMD	PL 691	A	39	34-B	5201	7		AMD	PL 542	A	92
34-B	1207	1	G	RP	PL 691	A	40	34-B	5206			AMD	PL 542	A	93
34-B	1207	3	A	RPR	PL 542	A	61	34-B	5431			AMD	PL 542	A	94
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34-B	1208	1	H	AMD	PL 542	A	63	34-B	5433	2		AMD	PL 542	A	96
34-B	1208	7		AMD	PL 542	A	64	34-B	5433	3		AMD	PL 542	A	97
34-B	1218	2		AMD	PL 542	A	65	34-B	5434	1		AMD	PL 542	A	98
34-B	1219	1		AMD	PL 657	AA	85	34-B	5434	3		AMD	PL 542	A	98
34-B	1223	1		AMD	PL 542	A	66	34-B	5435	1		AMD	PL 542	A	99
34-B	1223	8		AMD	PL 542	A	66	34-B	5435	2	B	AMD	PL 542	A	100
34-B	1223	9	A	AMD	PL 542	A	67	34-B	5437		1st	AMD	PL 542	A	101
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34-B	1223	10		AMD	PL 542	A	68	34-B	5439	1	C	RP	PL 657	CC	1
34-B	1223	10	B	AMD	PL 657	EE	3	34-B	5439	2		AMD	PL 657	CC	2
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34-B	1402	2	C	AMD	PL 542	A	70	34-B	5439	4		AMD	PL 657	CC	2
34-B	1407			AMD	PL 542	A	71	34-B	5439	5	B	AMD	PL 657	CC	3
34-B	1408			AMD	PL 542	A	72	34-B	5461	1		AMD	PL 542	A	104
34-B	1409	1	B-1	AMD	PL 674		1	34-B	5461	2		AMD	PL 542	A	104
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34-B	5461	8			AMD PL 542	A	106	35-A	116	1			AMD PL 623	B	1
34-B	5461	10	B		AMD PL 542	A	107	35-A	116	2			AMD PL 590		2
34-B	5462				AMD PL 542	A	108	35-A	116	3			AMD PL 623	B	2
34-B	5467	1			AMD PL 542	A	109	35-A	116	8			AMD PL 623	B	3
34-B	5467	2	D		AMD PL 542	A	110	35-A	116	8	A		AMD PL 590		3
34-B	5468	2			AMD PL 542	A	111	35-A	120	5			AMD PL 623	D	4
34-B	5469				AMD PL 542	A	112	35-A	122	1-B	A		AFF PL 655	MM	26
34-B	5470-B	1			AMD PL 542	A	113	35-A	122	1-B	A		AMD PL 655	MM	14
34-B	5470-B	2			AMD PL 542	A	113	35-A	122	2	B		AFF PL 655	MM	26
34-B	5470-B	3			AMD PL 542	A	113	35-A	122	2	B		AMD PL 655	MM	15
34-B	5470-B	4			AMD PL 542	A	113	35-A	122	6-B			AFF PL 652		14
34-B	5470-B	7	B		AMD PL 657	EE	6	35-A	122	6-B			NEW PL 652		13
34-B	5470-B	8	B		AMD PL 542	A	114	35-A	122	7	C		AFF PL 655	MM	26
34-B	5474	3			AMD PL 542	A	115	35-A	122	7	C		AMD PL 655	MM	16
34-B	5475	2	C		AMD PL 542	A	116	35-A	307-A				RP PL 623	C	1
34-B	5476				AMD PL 542	A	117	35-A	315				NEW PL 484		1
34-B	5477	1			AMD PL 542	A	118	35-A	507				RP PL 623	C	2
34-B	5477	4	B		AMD PL 542	A	119	35-A	508				NEW PL 623	A	10
34-B	5478	1			AMD PL 542	A	120	35-A	703	3-A			AMD PL 623	C	3
34-B	5601	5			AMD PL 542	A	121	35-A	707	1			AMD PL 623	A	11
34-B	5601	5-A			AMD PL 542	A	122	35-A	707	6			NEW PL 623	A	12
34-B	5601	5-B			AMD PL 542	A	123	35-A	708	1	C		NEW PL 623	A	13
34-B	5601	7-A			AMD PL 542	A	124	35-A	708	5			NEW PL 623	A	14
34-B	5602				AMD PL 542	A	125	35-A	711	1			AMD PL 623	B	4
34-B	5603				AMD PL 542	A	126	35-A	711	2			AMD PL 623	B	4
34-B	5604				AMD PL 542	A	127	35-A	801				RP PL 623	C	4
34-B	5604	3	A		AMD PL 657	EE	7	35-A	802				RP PL 623	C	4
34-B	5604-A	2			AMD PL 542	A	128	35-A	803				RP PL 623	C	4
34-B	5604-A	3			AMD PL 657	EE	8	35-A	804				RP PL 623	C	4
34-B	5604-A	3			AMD PL 542	A	128	35-A	805				RP PL 623	C	4
34-B	5605				AMD PL 542	A	129	35-A	806				RP PL 623	C	4
34-B	5605	13	B		AMD PL 657	EE	9	35-A	807				RP PL 623	C	4
34-B	5605	14-A			AMD PL 657	EE	10	35-A	808				RP PL 623	C	4
34-B	5606	1			AMD PL 657	EE	11	35-A	912				AMD PL 623	A	15
34-B	5606	3			AMD PL 542	A	130	35-A	1105				RP PL 623	C	5
34-B	5608	2			AMD PL 657	EE	12	35-A	1508-A	1			AMD PL 623	B	5
34-B	5610	1			AMD PL 542	A	131	35-A	1701	3			AMD PL 655	P	1
34-B	6001				AMD PL 542	A	132	35-A	2101				AMD PL 623	A	16
34-B	6201	2			AMD PL 542	A	133	35-A	2102				AMD PL 623	A	17
34-B	6205				AMD PL 542	A	134	35-A	2301				AMD PL 623	B	6
34-B	13003	3	B		AMD PL 559	A	35	35-A	2305-A				AMD PL 623	B	7
34-B	19001	1			AMD PL 657	CC	4	35-A	2307				AMD PL 623	B	8
34-B	19001	3			AMD PL 657	CC	4	35-A	2308				AMD PL 623	B	9
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35-A	101				AMD PL 623	D	2	35-A	2515		1st		AMD PL 623	B	11
35-A	102	6-B			NEW PL 623	A	1	35-A	2522				AMD PL 623	B	12
35-A	102	9-B			NEW PL 623	A	2	35-A	3210	9	B		AMD PL 637		1
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35-A	102	9-E			NEW PL 623	A	2	35-A	3451	9	H		AMD PL 655	KK	22
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35-A	102	12-A			NEW PL 623	A	4	35-A	3454		1st		AFF PL 655	DD	24
35-A	102	18-B			NEW PL 623	A	5	35-A	3454		1st		AMD PL 655	DD	14
35-A	102	21-A			NEW PL 623	A	6	35-A	3454	2			AMD PL 682		28
35-A	102	24			NEW PL 623	A	7	35-A	3454	5			AFF PL 655	DD	24
35-A	102	24			NEW PL 590		1	35-A	3454	5			AMD PL 655	DD	15
35-A	103	2	A		AMD PL 623	D	3	35-A	3456	1			AMD PL 682		29

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35-A	3457	2		AMD	PL 655	KK	23	35-A	7234			NEW	PL 623	A	18
35-A	4131	3	C	AFF	PL 655	MM	26	35-A	7235			NEW	PL 623	A	18
35-A	4131	3	C	AMD	PL 655	MM	17	35-A	7501			RP	PL 623	A	19
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35-A	4517	2		AMD	PL 592		2	35-A	7501-B			NEW	PL 623	A	21
35-A	4517	3		AMD	PL 592		2	35-A	7502			RP	PL 623	A	22
35-A	4517	5		NEW	PL 592		3	35-A	7701			RP	PL 623	C	7
35-A	6105	4	E	AMD	PL 602		1	35-A	7902			AMD	PL 623	B	28
35-A	6105	4	F	AMD	PL 602		2	35-A	7903	1st		AMD	PL 623	B	29
35-A	6105	4	G	NEW	PL 602		3	35-A	8301			RP	PL 623	C	8
35-A	6107-A			NEW	PL 602		4	35-A	8302			AMD	PL 623	B	30
35-A	6410	5		AMD	PL 662		23	35-A	8501			RP	PL 623	C	9
35-A	7101	6		AFF	PL 600		10	35-A	8901			RP	PL 623	C	10
35-A	7101	6		NEW	PL 600		3	35-A	9106			NEW	PL 623	C	11
35-A	7102	1-A	B	AMD	PL 623	C	6	35-A	10103	2		AMD	PL 637		2
35-A	7102	4		AFF	PL 600		10	35-A	10103	2	A	AFF	PL 655	MM	26
35-A	7102	4		NEW	PL 600		4	35-A	10103	2	A	AMD	PL 655	MM	18
35-A	7102	5		AFF	PL 600		10	35-A	10104	4	B-1	NEW	PL 637		3
35-A	7102	5		NEW	PL 600		4	35-A	10104	9		AMD	PL 627		5
35-A	7102	6		AFF	PL 600		10	35-A	10104	12		NEW	PL 637		4
35-A	7102	6		NEW	PL 600		4	35-A	10108			RPR	PL 637		5
35-A	7102	7		AFF	PL 600		10	35-A	10110	2	K	NEW	PL 637		6
35-A	7102	7		NEW	PL 600		4	35-A	10111	2		AMD	PL 637		7
35-A	7102	8		AFF	PL 600		10	35-A	10121			AMD	PL 637		8
35-A	7102	8		NEW	PL 600		4								
35-A	7104	2		AMD	PL 623	B	13	36	111	1-A		AFF	PL 530		2
35-A	7104	3		AMD	PL 623	B	14	36	111	1-A		AMD	PL 530		1
35-A	7104	3-A		AFF	PL 600		10	36	111	1-C		NEW	PL 694		2
35-A	7104	3-A		NEW	PL 600		5	36	111	7		AFF	PL 655	QQ	8
35-A	7104	4		RP	PL 623	B	15	36	111	7		AMD	PL 655	QQ	1
35-A	7104	7	A	AMD	PL 623	B	16	36	112	2		AFF	PL 655	I	11
35-A	7104	8		NEW	PL 623	B	17	36	112	2		AMD	PL 655	I	7
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35-A	7104-B	1	D	NEW	PL 623	B	19	36	112	7		AMD	PL 655	I	8
35-A	7104-B	2		AMD	PL 623	B	20	36	112	8		AMD	PL 548		10
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35-A	7104-B	3	A	AMD	PL 623	B	21	36	151-C	1		AMD	PL 694		5
35-A	7104-B	3	C	AMD	PL 623	B	22	36	151-D			NEW	PL 694		6
35-A	7104-B	3	D	AMD	PL 623	B	22	36	187-B	1	A	AFF	PL 644		33
35-A	7104-B	3	E	RP	PL 623	B	23	36	187-B	1	A	AMD	PL 644		2
35-A	7104-B	8		RP	PL 623	B	24	36	187-B	1	B	AFF	PL 644		33
35-A	7104-C			AFF	PL 600		10	36	187-B	1	B	AMD	PL 644		3
35-A	7104-C			NEW	PL 600		7	36	187-B	1-A		AFF	PL 644		33
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35-A	7107	6		AMD	PL 623	B	27	36	187-B	7		AFF	PL 655	QQ	8
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35-A	7221			NEW	PL 623	A	18	36	191	2	C	AMD	PL 694		7
35-A	7222			NEW	PL 623	A	18	36	191	2	F	AFF	PL 655	I	11
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35-A	7231			NEW	PL 623	A	18	36	191	2	SS	AMD	PL 548		11
35-A	7232			NEW	PL 623	A	18	36	191	2	TT	RAL	RR	1	50

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36	191	2	UU	RAL	RR 1		52	36	1760	45	A-4	NEW	PL 622		3
36	191	2	UU	AMD	PL 644		5	36	1760	94		AFF	PL 655	PP	4
36	191	2	UU	AMD	PL 694		8	36	1760	94		NEW	PL 655	PP	3
36	191	2	VV	RAL	RR 1		53	36	1764			AMD	PL 548		17
36	191	2	VV	AMD	PL 644		6	36	1865			AMD	PL 649	E	4
36	191	2	VV	RP	PL 694		9	36	2013			AFF	PL 657	N	3
36	191	2	WW	NEW	PL 644		7	36	2013			AMD	PL 657	N	2
36	191	2	WW	NEW	PL 694		10	36	2016	6		AMD	PL 655	L	3
36	194-A			NEW	PL 503		1	36	2519			AMD	PL 548		18
36	199-C	3		NEW	PL 665		6	36	2531			AFF	PL 548		36
36	305	2	C	AFF	PL 655	EE	30	36	2531			RPR	PL 548		19
36	305	2	C	AMD	PL 655	EE	21	36	2533			AFF	PL 548		35
36	305	6		AFF	PL 655	II	11	36	2533			NEW	PL 548		20
36	305	6		AMD	PL 655	II	8	36	2534			AFF	PL 548		36
36	573	6-A		NEW	PL 618		1	36	2534			NEW	PL 548		21
36	574-B			AMD	PL 618		2	36	2551	1-B		AMD	PL 542	A	136
36	574-C			NEW	PL 618		3	36	2551	1-G		NEW	PL 542	A	137
36	575-A			RPR	PL 619		1	36	2551	7-B		AMD	PL 542	A	138
36	581	1-A		AMD	PL 618		4	36	2552	1	I	AMD	PL 542	A	139
36	841	2		AMD	PL 552		1	36	2557	6		AMD	PL 542	A	140
36	841	2		AMD	PL 624		1	36	2559			AMD	PL 542	A	141
36	844	2		AMD	PL 548		13	36	2625			AMD	PL 649	E	5
36	943-A			AMD	PL 624		2	36	2861	6		AFF	PL 653		33
36	1102	4-A		NEW	PL 618		5	36	2861	6		AMD	PL 653		4
36	1102	4-B		NEW	PL 618		5	36	2862		1st	AFF	PL 653		33
36	1106-A	2	E	NEW	PL 618		6	36	2862		1st	AMD	PL 653		5
36	1106-A	3		AMD	PL 618		7	36	2866			AFF	PL 653		33
36	1112		3rd	AMD	PL 618		8	36	2866			AMD	PL 653		6
36	1140-B	1		AFF	PL 655	II	11	36	2871	3-B		NEW	PL 542	A	142
36	1140-B	1		AMD	PL 655	II	9	36	2871	6		AMD	PL 542	A	143
36	1140-B	2		RP	PL 644		8	36	2896			NEW	PL 477	II	1
36	1481	8		NEW	PL 646		2	36	2903-E			RP	PL 649	E	6
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36	1482	1	C	AMD	PL 646		3	36	3202	2-C		AMD	PL 644		11
36	1484	1		AMD	PL 610	A	8	36	3209	1-B		AMD	PL 644		12
36	1486		1st	AMD	PL 610	A	9	36	4312-C	4		RPR	PL 579		2
36	1752	1-B		AFF	PL 644		33	36	4603	1		AMD	PL 548		22
36	1752	1-B		AMD	PL 644		9	36	4603	11		RP	PL 548		23
36	1752	1-H		RP	PL 548		14	36	4641-B	4-B	B	AMD	PL 477	P	1
36	1752	8-C		AFF	PL 655	PP	4	36	5102	6-B		AFF	PL 622		7
36	1752	8-C		NEW	PL 655	PP	1	36	5102	6-B		NEW	PL 622		4
36	1752	11	B	AFF	PL 684		3	36	5102	6-C		AFF	PL 622		7
36	1752	11	B	AMD	PL 684		1	36	5102	6-C		NEW	PL 622		4
36	1752	11	B	AFF	PL 655	PP	4	36	5102	10		AFF	PL 655	QQ	8
36	1752	11	B	AMD	PL 655	PP	2	36	5102	10		AMD	PL 655	QQ	4
36	1752	17-B		AFF	PL 684		3	36	5122	1	EE	AMD	PL 644		13
36	1752	17-B		AMD	PL 684		2	36	5122	1	FF	AMD	PL 644		14
36	1754-A			AFF	PL 644		35	36	5122	1	GG	AFF	PL 644		33
36	1754-A			AMD	PL 644		10	36	5122	1	GG	NEW	PL 644		15
36	1754-B	2		AMD	PL 535		5	36	5122	2	HH	COR	RR 1		54
36	1760	5		AMD	PL 548		15	36	5122	2	HH	RAL	RR 1		55
36	1760	7-B		AFF	PL 657	N	3	36	5122	2	HH	AFF	PL 644		32
36	1760	7-B		AMD	PL 657	N	1	36	5122	2	HH	AMD	PL 644		16
36	1760	8		AMD	PL 548		16	36	5122	2	II	COR	RR 1		56
36	1760	9		AMD	PL 670		1	36	5122	2	II	AMD	PL 644		17
36	1760	9-B		RPR	PL 673		1	36	5122	2	II	AFF	PL 548		36
36	1760	28		AMD	PL 542	A	135	36	5122	2	II	AMD	PL 548		24
36	1760	41	B	AMD	PL 501		1	36	5122	2	JJ	RAL	RR 1		55

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36	5122	2	JJ	AMD	PL	644	18	36	5219-HH			NEW	PL	548	33
36	5122	2	KK	AFF	PL	644	32	36	5219-HH 1	J		AMD	PL	657 P	1
36	5122	2	KK	NEW	PL	644	19	36	5222	6		AFF	PL	655 QQ	8
36	5122	2	LL	AFF	PL	657 M	2	36	5222	6		RP	PL	655 QQ	5
36	5122	2	LL	NEW	PL	657 M	1	36	5241			AFF	PL	655 QQ	8
36	5122	2	M	AMD	PL	657 R	1	36	5241			RP	PL	655 QQ	6
36	5122	2	M-1	AFF	PL	657 R	3	36	5245			AFF	PL	655 QQ	8
36	5122	2	M-1	NEW	PL	657 R	2	36	5245			RP	PL	655 QQ	7
36	5142	8-B		AFF	PL	622	7	36	5276-A	8		AMD	PL	547	3
36	5142	8-B		AMD	PL	622	5	36	5283		last	NEW	PL	685	2
36	5142	8-B	C	AFF	PL	548	36	36	5283-A			NEW	PL	685	3
36	5142	8-B	C	AMD	PL	548	25	36	5284	2		AMD	PL	685	4
36	5164	1		AFF	PL	548	35	36	5284-A	2		AMD	PL	685	5
36	5164	1		AMD	PL	548	26	36	5285	2		AMD	PL	685	6
36	5191	3		AMD	PL	548	27	36	5285-A	2		AMD	PL	685	7
36	5200-A	1	X	AMD	PL	644	20	36	5288-A	1		AMD	PL	685	8
36	5200-A	1	Y	AMD	PL	644	21	36	5289			AMD	PL	685	9
36	5200-A	1	Z	AFF	PL	644	33	36	5290			AMD	PL	685	10
36	5200-A	1	Z	NEW	PL	644	22	36	5291			NEW	PL	685	11
36	5200-A	2	U	AMD	PL	644	23	36	6201	5		AMD	PL	513	1
36	5200-A	2	V	COR	RR	1	57	36	6201	10		AMD	PL	552	2
36	5200-A	2	V	RAL	RR	1	58	36	6220			AMD	PL	657 BB	15
36	5200-A	2	V	AMD	PL	644	24	36	6611			NEW	PL	657 Q	1
36	5200-A	2	V	AFF	PL	548	36	36	6612			NEW	PL	657 Q	1
36	5200-A	2	V	AMD	PL	548	28	36	6613			NEW	PL	657 Q	1
36	5200-A	2	W	RAL	RR	1	58	36	6614			NEW	PL	657 Q	1
36	5200-A	2	W	AMD	PL	644	25	36	6615			NEW	PL	657 Q	1
36	5200-A	2	X	AFF	PL	644	32	36	6759			AFF	PL	655 DD	24
36	5200-A	2	X	NEW	PL	644	26	36	6759			AMD	PL	655 DD	16
36	5203-C	4	A	AFF	PL	644	32	36	7302			AFF	PL	655 DD	24
36	5203-C	4	A	AMD	PL	644	27	36	7302			AMD	PL	655 DD	17
36	5204			AMD	PL	548	29								
36	5211	16-B		AFF	PL	622	7	37-B	10			NEW	PL	472	1
36	5211	16-B		NEW	PL	622	6	37-B	504	4	G	NEW	PL	539	1
36	5216-D	3		AFF	PL	548	36	37-B	509	5		NEW	PL	481	1
36	5216-D	3		AMD	PL	548	30	37-B	708	1		AMD	PL	529	1
36	5216-D	4		AFF	PL	548	36	37-B	742	1	C	AMD	PL	626	2
36	5216-D	4		AMD	PL	548	30	37-B	742	2	B	AFF	PL	655 MM	26
36	5216-D	6		AFF	PL	644	33	37-B	742	2	B	AMD	PL	655 MM	19
36	5216-D	6		RP	PL	644	28	37-B	1112			AFF	PL	655 HH	7
36	5217-D	1	A-1	AFF	PL	665	13	37-B	1112			AMD	PL	655 HH	3
36	5217-D	1	A-1	NEW	PL	665	7	37-B	1119	3		AFF	PL	655 HH	7
36	5217-D	1	E	AFF	PL	665	13	37-B	1119	3		AMD	PL	655 HH	4
36	5217-D	1	E	AMD	PL	665	8	37-B	1131	2	G	AFF	PL	655 HH	7
36	5217-D	1	H	AFF	PL	665	13	37-B	1131	2	G	RP	PL	655 HH	5
36	5217-D	1	H	RPR	PL	665	9								
36	5217-D	2		AFF	PL	665	13	38	87-A	1	D	RP	PL	498	1
36	5217-D	2		RPR	PL	665	10	38	341-H	1		AMD	PL	538	1
36	5217-D	4		AFF	PL	665	13	38	342	11-B		AMD	PL	538	2
36	5217-D	4		AMD	PL	665	11	38	342	11-C		NEW	PL	538	3
36	5217-D	5		AFF	PL	665	13	38	344	9		AMD	PL	538	4
36	5217-D	5		AMD	PL	665	12	38	347-A	5		AMD	PL	538	5
36	5219-BB	4		AMD	PL	548	31	38	347-A	6	A	AMD	PL	538	6
36	5219-GG			AFF	PL	548	36	38	348	1		AMD	PL	538	7
36	5219-GG			RPR	PL	548	32	38	349-A			AFF	PL	653	33
36	5219-GG 1	G		AMD	PL	563	13	38	349-A			RP	PL	653	7
36	5219-H	1		AFF	PL	644	32	38	351		1st	AFF	PL	653	33
36	5219-H	1		AMD	PL	644	29	38	351		1st	AMD	PL	653	8
36	5219-HH			AFF	PL	548	35	38	351		2nd	AFF	PL	653	33

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38	351		2nd	NEW	PL 653		9	38	482	2	B	AFF	PL 653		33
38	352	3		AFF	PL 653		33	38	482	2	B	AMD	PL 653		16
38	352	3		AMD	PL 653		10	38	482	2-B		AFF	PL 653		33
38	352	4-A		AFF	PL 653		33	38	482	2-B		RP	PL 653		17
38	352	4-A		RPR	PL 653		11	38	484	4-A		AFF	PL 653		33
38	353	1-A		AFF	PL 653		33	38	484	4-A		AMD	PL 653		18
38	353	1-A		RP	PL 653		12	38	484	10		AFF	PL 655	DD	24
38	353	2		AFF	PL 653		33	38	484	10		AMD	PL 655	DD	18
38	353	2		AMD	PL 653		13	38	485-A	1-C		AFF	PL 653		33
38	353-B	1		AMD	PL 546		1	38	485-A	1-C		AMD	PL 653		19
38	353-B	2		RPR	PL 546		2	38	488		1st	AMD	PL 551		1
38	353-B	3		AMD	PL 546		3	38	488	9		AFF	PL 682		40
38	353-B	4		AMD	PL 546		3	38	488	9		RP	PL 682		31
38	361-A	1-D		AFF	PL 655	KK	34	38	488	9		AFF	PL 653		33
38	361-A	1-D		AMD	PL 655	KK	24	38	488	9		AMD	PL 653		20
38	401		7th	AFF	PL 655	KK	34	38	488	9-A		AFF	PL 682		40
38	401		7th	AMD	PL 655	KK	25	38	488	9-A		NEW	PL 682		32
38	402			AFF	PL 655	KK	34	38	488	11		AFF	PL 653		33
38	402			AMD	PL 655	KK	26	38	488	11		AMD	PL 653		21
38	410-I	1		AFF	PL 655	KK	34	38	488	14	A	AFF	PL 655	JJ	41
38	410-I	1		AMD	PL 655	KK	27	38	488	14	A	AMD	PL 655	JJ	32
38	410-M		last	AFF	PL 655	EE	30	38	488	15		AMD	PL 551		2
38	410-M		last	RP	PL 655	EE	22	38	488	19		AFF	PL 655	FF	16
38	420-D	5		AFF	PL 653		33	38	488	19		AMD	PL 655	FF	13
38	420-D	5		AMD	PL 653		14	38	488	26		NEW	PL 551		3
38	420-D	6		AFF	PL 655	JJ	41	38	488	27		NEW	PL 551		3
38	420-D	6		AMD	PL 655	JJ	29	38	488	28		NEW	PL 551		3
38	420-D	11	A	AFF	PL 655	JJ	41	38	489-A-1			AFF	PL 682		40
38	420-D	11	A	AMD	PL 655	JJ	30	38	489-A-1			NEW	PL 682		33
38	435		3rd	AMD	PL 691	C	6	38	489-D	2	B	AFF	PL 655	JJ	41
38	438-B			AMD	PL 599		10	38	489-D	2	B	AMD	PL 655	JJ	33
38	470-G			AFF	PL 655	EE	30	38	490			AFF	PL 653		33
38	470-G			RP	PL 655	EE	23	38	490			RP	PL 653		22
38	480-B	2-B		AMD	PL 599		11	38	490-LL			AFF	PL 653		33
38	480-B	2-E		AMD	PL 538		8	38	490-LL			NEW	PL 653		23
38	480-D	3		AFF	PL 653		33	38	490-MM			AFF	PL 653		33
38	480-D	3		AMD	PL 653		15	38	490-MM			NEW	PL 653		23
38	480-E-1		1st	AMD	PL 599		12	38	490-NN			AFF	PL 653		33
38	480-E-1	4		AFF	PL 682		40	38	490-NN			NEW	PL 653		23
38	480-E-1	4		NEW	PL 682		30	38	490-OO			AFF	PL 653		33
38	480-E-3			NEW	PL 599		13	38	490-OO			NEW	PL 653		23
38	480-F	1	B	AFF	PL 655	FF	16	38	490-PP			AFF	PL 653		33
38	480-F	1	B	AMD	PL 655	FF	11	38	490-PP			NEW	PL 653		23
38	480-F	1	F	AFF	PL 655	FF	16	38	490-QQ			AFF	PL 653		33
38	480-F	1	F	AMD	PL 655	FF	12	38	490-QQ			NEW	PL 653		23
38	480-HH	3	H	AFF	PL 655	MM	26	38	490-RR			AFF	PL 653		33
38	480-HH	3	H	AMD	PL 655	MM	20	38	490-RR			NEW	PL 653		23
38	480-Q	27		AMD	PL 612		3	38	490-SS			AFF	PL 653		33
38	480-Q	29		COR	RR 1		59	38	490-SS			NEW	PL 653		23
38	480-Q	30		COR	RR 1		60	38	490-TT			AFF	PL 653		33
38	480-Q	30		RAL	RR 1		61	38	490-TT			NEW	PL 653		23
38	480-Q	31		RAL	RR 1		61	38	546-B	1		AFF	PL 655	KK	34
38	480-Q	31		AMD	PL 538		9	38	546-B	1		AMD	PL 655	KK	28
38	480-Q	32		NEW	PL 599		14	38	549			AFF	PL 655	KK	34
38	480-Y	3	A	AMD	PL 538		10	38	549			AMD	PL 655	KK	29
38	480-Y	3	C	AMD	PL 538		10	38	568-B	2	E	AFF	PL 691	A	42
38	480-Y	4	A	AMD	PL 538		11	38	568-B	2	E	RPR	PL 691	A	41
38	480-Z	3		AFF	PL 655	JJ	41	38	570-E			RP	PL 538		12
38	480-Z	3		AMD	PL 655	JJ	31	38	570-H			RP	PL 691	A	43

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38	590-A		1st	AMD	PL	538	13	38	1400			NEW	PL	538	14
38	633	2		AFF	PL	653	33	38	1451	3-A		RP	PL	691 C	7
38	633	2		AMD	PL	653	24	38	1480-A			AFF	PL	655 MM	26
38	634	3		AFF	PL	655 MM	26	38	1480-A			AMD	PL	655 MM	23
38	634	3		AMD	PL	655 MM	21	38	1652	2		AFF	PL	655 GG	70
38	640		1st	AFF	PL	655 MM	26	38	1652	2		AMD	PL	655 GG	18
38	640		1st	AMD	PL	655 MM	22	38	1652	3		AMD	PL	657 BB	16
38	640	4		AMD	PL	662	24	38	1668			AFF	PL	655 GG	70
38	840	1	D	AFF	PL	653	33	38	1668			AMD	PL	655 GG	19
38	840	1	D	AMD	PL	653	25	38	1669			AFF	PL	655 GG	70
38	909			AFF	PL	655 JJ	41	38	1669			AMD	PL	655 GG	20
38	909			AMD	PL	655 JJ	34	38	1705	9-B		AFF	PL	655 GG	70
38	956	1		AFF	PL	655 JJ	41	38	1705	9-B		RP	PL	655 GG	21
38	956	1		AMD	PL	655 JJ	35	38	1721			AFF	PL	655 GG	70
38	956	2	B	AFF	PL	655 JJ	41	38	1721			AMD	PL	655 GG	22
38	956	2	B	AMD	PL	655 JJ	36	38	1722			AFF	PL	655 GG	70
38	961			AFF	PL	655 JJ	41	38	1722			AMD	PL	655 GG	23
38	961			AMD	PL	655 JJ	37	38	1725		1st	AFF	PL	655 GG	70
38	1022		1st	AMD	PL	559 A	36	38	1725		1st	AMD	PL	655 GG	24
38	1163	2		AFF	PL	655 JJ	41	38	1726-A	4	A	AFF	PL	655 GG	70
38	1163	2		AMD	PL	655 JJ	38	38	1726-A	4	A	AMD	PL	655 GG	25
38	1252	7	B	AFF	PL	655 JJ	41	38	1727			AFF	PL	655 GG	70
38	1252	7	B	AMD	PL	655 JJ	39	38	1727			AMD	PL	655 GG	26
38	1303-C	6	D	AFF	PL	655 GG	70	38	1803			AFF	PL	655 EE	30
38	1303-C	6	D	AMD	PL	655 GG	7	38	1803			RP	PL	655 EE	24
38	1303-C	19-C		AFF	PL	655 GG	70	38	1804			AFF	PL	655 KK	34
38	1303-C	19-C		RP	PL	655 GG	8	38	1804			AMD	PL	655 KK	30
38	1303-C	35		AFF	PL	655 GG	70	38	1871	1		AMD	PL	657 X	8
38	1303-C	35		AMD	PL	655 GG	9	38	1905	1		AFF	PL	655 KK	34
38	1304	4		AFF	PL	655 GG	70	38	1905	1		AMD	PL	655 KK	31
38	1304	4		AMD	PL	655 GG	10	38	2013	2	A	AFF	PL	655 EE	30
38	1304	13		AFF	PL	655 GG	70	38	2013	2	A	RP	PL	655 EE	25
38	1304	13		AMD	PL	655 GG	11	38	2101-A	2		AFF	PL	655 GG	70
38	1304-B	4-A	D	AFF	PL	655 GG	70	38	2101-A	2		RP	PL	655 GG	27
38	1304-B	4-A	D	AMD	PL	655 GG	12	38	2101-A	3		AFF	PL	655 GG	70
38	1309			AFF	PL	655 GG	70	38	2101-A	3		NEW	PL	655 GG	28
38	1309			AMD	PL	655 GG	13	38	2122			AFF	PL	655 GG	70
38	1310-AA	1-A	D	AMD	PL	566	2	38	2122			AMD	PL	655 GG	29
38	1310-AA	2		AMD	PL	566	3	38	2123-C			AFF	PL	655 EE	30
38	1310-AA	3	A	AMD	PL	566	4	38	2123-C			RP	PL	655 EE	26
38	1310-AA	3	B	AMD	PL	566	5	38	2124			AFF	PL	655 GG	70
38	1310-AA	5		AMD	PL	566	6	38	2124			AMD	PL	655 GG	30
38	1310-AA	7		NEW	PL	566	7	38	2124-A			AFF	PL	655 GG	70
38	1310-N	12		NEW	PL	543	1	38	2124-A			AMD	PL	655 GG	31
38	1310-S	1		AFF	PL	655 GG	70	38	2132			AFF	PL	655 GG	70
38	1310-S	1		AMD	PL	655 GG	14	38	2132			AMD	PL	655 GG	32
38	1310-U		1st	AFF	PL	655 GG	70	38	2133			AFF	PL	655 GG	70
38	1310-U		1st	AMD	PL	655 GG	15	38	2133			AMD	PL	655 GG	33
38	1310-X	3		AMD	PL	566	1	38	2134		1st	AFF	PL	655 GG	70
38	1316-G		1st	AFF	PL	655 GG	70	38	2134		1st	AMD	PL	655 GG	34
38	1316-G		1st	AMD	PL	655 GG	16	38	2134	3		AFF	PL	655 GG	70
38	1316-G	2		AFF	PL	655 GG	70	38	2134	3		AMD	PL	655 GG	35
38	1316-G	2		AMD	PL	655 GG	17	38	2138	1		AFF	PL	655 GG	70
38	1316-G	3		AFF	PL	655 GG	70	38	2138	1		AMD	PL	655 GG	36
38	1316-G	3		AMD	PL	655 GG	17	38	2138	3		RP	PL	548	34
38	1319-E	1	E	AFF	PL	653	33	38	2140			AFF	PL	655 GG	70
38	1319-E	1	E	AMD	PL	653	26	38	2140			AMD	PL	655 GG	37
38	1319-E	1	F	AFF	PL	653	33	38	2151-A			AFF	PL	655 GG	70
38	1319-E	1	F	RP	PL	653	27	38	2151-A			AMD	PL	655 GG	38

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38	2152			AFF	PL 655	GG	70	38	2232	5		AFF	PL 655	GG	70
38	2152			RP	PL 655	GG	39	38	2232	5		AMD	PL 655	GG	66
38	2153	1		AFF	PL 655		70	38	2235			AFF	PL 655	GG	70
38	2153	1		AMD	PL 655	GG	40	38	2235			AMD	PL 655	GG	67
38	2154			AFF	PL 655	GG	70	38	2236			AFF	PL 655	GG	70
38	2154			AMD	PL 655	GG	41	38	2236			AMD	PL 655	GG	68
38	2155			AFF	PL 655	GG	70								
38	2155			AMD	PL 655	GG	42	39-A	102	12	G	AMD	PL 678	C	9
38	2156-A			AFF	PL 655	GG	70	39-A	102	12	H	RP	PL 678	C	10
38	2156-A			AMD	PL 655	GG	43	39-A	102	13		AFF	PL 643		14
38	2159			AFF	PL 655	GG	70	39-A	102	13		RP	PL 643		7
38	2159			AMD	PL 655	GG	44	39-A	102	13-A		AFF	PL 643		14
38	2160	1		AFF	PL 655	GG	70	39-A	102	13-A		NEW	PL 643		8
38	2160	1		AMD	PL 655	GG	45	39-A	105-A	1	B	AFF	PL 643		14
38	2160	4		AFF	PL 655	GG	70	39-A	105-A	1	B	RPR	PL 643		9
38	2160	4		AMD	PL 655	GG	46	39-A	114			AFF	PL 643		14
38	2161			AFF	PL 655	GG	70	39-A	114			RP	PL 643		10
38	2161			AMD	PL 655	GG	47	39-A	153	10		NEW	PL 647		1
38	2162			AFF	PL 655	GG	70	39-A	205	9	B	AMD	PL 647		2
38	2162			AMD	PL 655	GG	48	39-A	211			AMD	PL 647		3
38	2170			AFF	PL 655	GG	70	39-A	212	1		AMD	PL 647		4
38	2170			AMD	PL 655	GG	49	39-A	212	1-A		NEW	PL 647		5
38	2170-A	1st		AFF	PL 655	GG	70	39-A	212	3		AMD	PL 647		6
38	2170-A	1st		AMD	PL 655	GG	50	39-A	213	1		RPR	PL 647		7
38	2171	1st		AFF	PL 655	GG	70	39-A	213	1-B		NEW	PL 647		8
38	2171	1st		AMD	PL 655	GG	51	39-A	213	3-A		NEW	PL 647		9
38	2172	1st		AFF	PL 655	GG	70	39-A	214	1	B	AMD	PL 647		10
38	2172	1st		AMD	PL 655	GG	52	39-A	214	1	B-1	NEW	PL 647		11
38	2172	2	A	AFF	PL 655	GG	70	39-A	215	1		AMD	PL 647		12
38	2172	2	A	AMD	PL 655	GG	53	39-A	215	1-A		NEW	PL 647		13
38	2173			AFF	PL 655	GG	70	39-A	217	8		NEW	PL 647		14
38	2173			AMD	PL 655	GG	54	39-A	221	2	A	RPR	PL 647		15
38	2174	2		AFF	PL 655	GG	70	39-A	301		1st	AMD	PL 647		16
38	2174	2		AMD	PL 655	GG	55	39-A	302			AMD	PL 647		17
38	2175-A			AFF	PL 655	GG	70	39-A	306	1		AMD	PL 647		18
38	2175-A			AMD	PL 655	GG	56	39-A	320		2nd	AMD	PL 647		19
38	2175-B			AFF	PL 655	GG	70	39-A	321-A			NEW	PL 647		20
38	2175-B			AMD	PL 655	GG	57	39-A	321-B			NEW	PL 647		20
38	2176	1st		AFF	PL 655	GG	70	39-A	322	1		AMD	PL 647		21
38	2176	1st		AMD	PL 655	GG	58	39-A	401	1		AFF	PL 643		14
38	2176	4		AFF	PL 655	GG	70	39-A	401	1		AMD	PL 643		11
38	2176	4		AMD	PL 655	GG	59	39-A	401	4		AFF	PL 643		14
38	2177			AFF	PL 655	GG	70	39-A	401	4		AMD	PL 643		12
38	2177			AMD	PL 655	GG	60								
38	2191			AFF	PL 655	GG	70								
38	2191			AMD	PL 655	GG	61								
38	2192			AFF	PL 655	GG	70								
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38	2193			AMD	PL 655	GG	63								
38	2201			AFF	PL 655	GG	70								
38	2201			AMD	PL 655	GG	64								
38	2201	3rd		AMD	PL 544		1								
38	2202	2		RP	PL 544		2								
38	2203-A			AMD	PL 544		3								
38	2232	1st		AFF	PL 655	GG	70								
38	2232	1st		AMD	PL 655	GG	65								
38	2232	4		AFF	PL 655	GG	70								
38	2232	4		AMD	PL 655	GG	66								

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Public Laws not allocated to the Maine Revised Statutes of 1964 affected by the laws of the First Special Session and the Second Regular Session of the 125th Legislature and the Revisor's Report 2011, Chapter 1.

YEAR	CHAP	SEC	AFFECTED BY			YEAR	CHAP	SEC	AFFECTED BY						
			(TYPE)	YEAR	CHAP	SEC			(TYPE)	YEAR	CHAP	SEC			
2007	240	Q1	AMD	PL	2011	689	2	2011	380	C9	AMD	PL	2011	655	C13
2009	213	WWW2	AMD	PL	2011	671	1	2011	380	JJ1	AMD	PL	2011	655	DDD1
2009	356	A5	RP	PL	2011	644	30	2011	380	JJ1	AMD	PL	2011	477	HH1
2009	467	9	RP	PL	2011	690	2	2011	380	OOO1	AMD	PL	2011	477	E1
2009	467	9	AFF	PL	2011	690	13	2011	380	OOO1	AFF	PL	2011	477	E2
2009	571	KKK1	AMD	PL	2011	655	N1	2011	380	QQ1	AMD	PL	2011	657	C1
2009	636	A3	AMD	PL	2011	467	1	2011	380	QQ3	AMD	PL	2011	657	C1
2009	636	A4	NEW	PL	2011	467	2	2011	428	8	AMD	PL	2011	655	J1
2011	167	5	COR	RR	2011	1	62	2011	439	9	RP	PL	2011	694	11
2011	205	4	AMD	PL	2011	655	EE27	2011	439	11	AMD	PL	2011	694	12
2011	205	4	AFF	PL	2011	655	EE30	2011	439	12	AMD	PL	2011	694	13
2011	270	3	AMD	PL	2011	691	A44	2011	448	3	AMD	PL	2011	655	J2
2011	270	4	COR	RR	2011	1	63	2011	452	3	RP	PL	2011	477	FF1
2011	345	4	COR	RR	2011	1	64	2011	455	3	AMD	PL	2011	655	J3
2011	380	C8	AMD	PL	2011	477	C4	2011	477	U1	AMD	PL	2011	657	F2
2011	380	C8	AMD	PL	2011	655	C13	2011	477	U1	AMD	PL	2011	575	B1
2011	380	C9	AMD	PL	2011	477	C4								

TABLE III

Public Laws exempted in revisions prior to 1964 affected by the laws of the First Special Session and the Second Regular Session of the 125th Legislature and the Revisor's Report 2011, Chapter 1.

(THERE WERE NONE.)



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to the Laws of the First Special Session  
and the Second Regular Session of the 125th Legislature

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